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PROVISIONS RELATING TO THE CALIFORNIA LAND CONSERVATION
ACT OF 1965 (THE WILLIAMSON ACT)

CHAPTER 7. AGRICULTURAL LAND *

- Article 1. General Provisions. §§ 51200–51207.
- 2. Declaration. §§ 51220–51221.
- 2.5. Agricultural Preserves. §§ 51230–51239.
- 3. Contracts. §§ 51240–51257.
- 5. Cancellation. §§ 51280–51287.
- 6. Eminent Domain or Other Acquisition. §§ 51290–51295.
- 7. Demonstration Land Preservation Project. §§ 51296–51298.

Article 1. General Provisions

- § 51200. Citation of chapter.
- § 51201. Definitions.
- § 51202. Use of county-assessed values. [Repealed.]
- § 51203. Current fair market valuations subject to equalization.
- § 51205. Inclusion within agricultural preserve; “agricultural land.”
- § 51205.1. Scenic highway corridor.
- § 51206. Interpretation of chapter; Department of Conservation.
- § 51207. Report to the Legislature.

51200. Citation of chapter. This chapter shall be known as the California Land Conservation Act of 1965 or as the Williamson Act.

History.—Stats. 1967, p. 3214, in effect November 8, 1967, added “or as the Williamson Act” to the first sentence.

Note.—Section 1 of Stats. 1999, Ch. 1018 (SB 985) in effect January 1, 2000, provided that the Legislature hereby finds and declares all of the following:

- (a) The long-term conservation of agricultural and open-space land is critical to the welfare of the people of California.
- (b) The Williamson Act (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code) has succeeded in keeping large amounts of agricultural land in agriculture for more than three decades by providing long-term, enforceably restricted contracts, and property tax benefits to participating farmers and ranchers.
- (c) The people of the state have made significant investments in local government subventions to offset property tax revenue loss and the cost of administering local agricultural preserve programs.
- (d) Strong and consistent state and local enforcement of the restrictions required under the Williamson Act is necessary to preserve the constitutional benefit of preferential assessments for contracting landowners, and to protect the state’s considerable investment in the conservation of agricultural and open-space land.
- (e) The interpretation of compatible recreational uses has expanded well beyond the types of uses originally contemplated by the Legislature as being consistent with the agricultural or open-space character so greatly valued by the people of California, and local governments should be provided more specific guidance on the latitude for those uses.
- (f) Some owners of contracted land are seeking to establish multiple legal parcels to circumvent local restrictions on minimum parcel sizes on land for which the original parcel size was an element of the contract.
- (g) Existing provisions of the Williamson Act do not require that local zoning of designated agriculture preserves be consistent with the minimum parcel size under the act, and without that requirement the purpose of the act can be seriously undermined by subminimum parcel sizes and incompatible uses within those preserves.
- (h) Some local governments have approved or are considering approval of large-scale mining or other uses that would terminate and replace or irreparably diminish the agricultural uses on contracted lands, while still receiving both tax benefits and qualifying for subventions from the state.
- (i) The latitude provided by the Williamson Act to participating local governments is not, and has never been, so great as to make uses that are not inherently related to, or beneficial to, the agricultural or open-space character of contracted land permissible under the compatible use provisions of the Williamson Act.
- (j) Some local governments have approved proposals for subdivision maps or parcel maps on Williamson Act contracted land that met the minimum parcel size requirements in the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code), even though the result has been the creation of housing developments on property under contract that continues to receive tax benefits and state subventions.
- (k) More specific guidance is needed, in concert with the careful enforcement of the Williamson Act by administering local governments, so that the result will not excessively curtail the latitude of local governments to manage agricultural preserves and Williamson Act contracts.
- (l) Focusing development pressures, infrastructure funding, and investment funds away from agricultural preserves will increase the urban benefits of the program by making more funds available to develop or redevelop within existing urban boundaries.

* Unless otherwise noted Chapter 7 was added by Stats. 1965, p. 3377, in effect September 17, 1965.

(m) The long-term conservation of agricultural and open-space land will additionally benefit urban areas by ensuring that a steady supply of high-quality, low-cost fresh foods is available to urban residents, by providing open-space uses that benefit the public seeking escape from the closeness of urban society, and by conserving world-class agricultural soils.

Construction.—A contract between a landowner and a county hereunder, entered into at a time when the existing zoning permitted all agricultural uses, including accessory buildings, without the necessity of obtaining a discretionary permit and providing that land would be restricted to agricultural and compatible uses, could not reasonably be interpreted as a promise by the county that the zoning would not be changed. The contract thus did not preclude the county from enacting and enforcing more restrictive zoning to conform to the California Coastal Act (Pub. Res. Code, § 30000 et seq.). *Delucchi v. Santa Cruz County*, 179 Cal.App.3d 814. This act is implemented by a city or county through the establishment of agricultural preserves consisting of agricultural and other vacant lands, and the execution of long term contracts with land owners who are willing to restrict the land uses of their property to agricultural and similar endeavors; thereafter, the lands must be assessed for city or county tax purposes according to the restricted land use, not necessarily the highest and best use. *Borel v. Contra Costa County*, 220 Cal.App.3d 521. Acceptance by the Bureau of Indian Affairs of land into trust does not void restrictions on the land under a contract established pursuant to this Act. *Friends of East Willits Valley v. Mendocino County*, 101 Cal.App.4th 191.

51201. Definitions. As used in this chapter, unless otherwise apparent from the context:

(a) “Agricultural commodity” means any and all plant and animal products produced in this state for commercial purposes.

(b) “Agricultural use” means use of land for the purpose of producing an agricultural commodity for commercial purposes.

(c) “Prime agricultural land” means any of the following:

(1) All land that qualifies for rating as class I or class II in the Natural Resource Conservation Service land use capability classifications.

(2) Land which qualifies for rating 80 through 100 in the Storie Index Rating.

(3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.

(4) Land planted with fruit- or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.

(5) Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars (\$200) per acre for three of the previous five years.

(d) “Agricultural preserve” means an area devoted to either agricultural use, as defined in subdivision (b), recreational use as defined in subdivision (n), or open-space use as defined in subdivision (o), or any combination of those uses and which is established in accordance with the provisions of this chapter.

(e) “Compatible use” is any use determined by the county or city administering the preserve pursuant to Section 51231, 51238, or 51238.1 or by this act to be compatible with the agricultural, recreational, or open-space use of land within the preserve and subject to contract. “Compatible use” includes agricultural use, recreational use or open-space use unless the board

or council finds after notice and hearing that the use is not compatible with the agricultural, recreational or open-space use to which the land is restricted by contract pursuant to this chapter.

(f) “Board” means the board of supervisors of a county which establishes or proposes to establish an agricultural preserve or which enters or proposes to enter into a contract on land within an agricultural preserve pursuant to this chapter.

(g) “Council” means the city council of a city which establishes or proposes to establish an agricultural preserve or which enters or proposes to enter into a contract on land within an agricultural preserve pursuant to this chapter.

(h) Except where it is otherwise apparent from the context, “county” or “city” means the county or city having jurisdiction over the land.

(i) A “scenic highway corridor” is an area adjacent to, and within view of, the right-of-way of:

(1) An existing or proposed state scenic highway in the state scenic highway system established by the Legislature pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code and which has been officially designated by the Department of Transportation as an official state scenic highway; or

(2) A county scenic highway established pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code, if each of the following conditions have been met:

(A) The scenic highway is included in an adopted general plan of the county or city; and

(B) The scenic highway corridor is included in an adopted specific plan of the county or city; and

(C) Specific proposals for implementing the plan, including regulation of land use, have been approved by the Advisory Committee on a Master Plan for Scenic Highways, and the county or city highway has been officially designated by the Department of Transportation as an official county scenic highway.

(j) A “wildlife habitat area” is a land or water area designated by a board or council, after consulting with and considering the recommendation of the Department of Fish and Game, as an area of great importance for the protection or enhancement of the wildlife resources of the state.

(k) A “saltpond” is an area which, for at least three consecutive years immediately prior to being placed within an agricultural preserve pursuant to this chapter, has been used for the solar evaporation of seawater in the course of salt production for commercial purposes.

(l) A “managed wetland area” is an area, which may be an area diked off from the ocean or any bay, river or stream to which water is occasionally admitted, and which, for at least three consecutive years immediately prior to

being placed within an agricultural preserve pursuant to this chapter, was used and maintained as a waterfowl hunting preserve or game refuge or for agricultural purposes.

(m) A “submerged area” is any land determined by the board or council to be submerged or subject to tidal action and found by the board or council to be of great value to the state as open space.

(n) “Recreational use” is the use of land in its agricultural or natural state by the public, with or without charge, for any of the following: walking, hiking, picnicking, camping, swimming, boating, fishing, hunting, or other outdoor games or sports for which facilities are provided for public participation. Any fee charged for the recreational use of land as defined in this subdivision shall be in a reasonable amount and shall not have the effect of unduly limiting its use by the public. Any ancillary structures necessary for a recreational use shall comply with the provisions of Section 51238.1.

(o) “Open-space use” is the use or maintenance of land in a manner that preserves its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide essential habitat for wildlife, or for the solar evaporation of sea water in the course of salt production for commercial purposes, if the land is within:

- (1) A scenic highway corridor, as defined in subdivision (i).
- (2) A wildlife habitat area, as defined in subdivision (j).
- (3) A saltpond, as defined in subdivision (k).
- (4) A managed wetland area, as defined in subdivision (l).
- (5) A submerged area, as defined in subdivision (m).

History.—Stats. 1967, p. 3214, in effect November 8, 1967, added subparagraphs (2), (3), and (4) and renumbered former subparagraph (2) as (5) in subdivision (c); substantially revised subdivision (d); and added subdivisions (e) and (f). Stats. 1968, p. 852, in effect November 13, 1968, added the second sentence to subdivision (d). Stats. 1969, p. 3018, in effect November 10, 1969, substantially revised subdivision (d), deleting the second to sixth sentence; substantially revised subdivision (f), deleting the definition of “Uniform rules”; and added subdivisions (g) to (n). Stats. 1970, p. 2317, in effect November 23, 1970, added “any of the following” to subdivision (c); expanded subdivision (d) to include “recreational use” or a combination of uses; added “recreational” to the list of compatible uses and added the second sentence to subdivision (e); added subdivision (n); and relettered former subdivision (n) as subdivision (o). Added Stats. 1978, Ch. 1120, in effect January 1, 1979. Added in subdivision (d) the words “as defined in subdivision (b),” between “agricultural use,” and “recreational use”; and after “and” added “which is established in accordance with the provisions of this chapter.” Also in subdivision (l)1 and (C) deleted the words “Public Works” and inserted “Transportation”. Stats. 1994, Ch. 1251, in effect January 1, 1995, hyphenated “open space” after “subdivision (n), or,” and substituted “those” for “such” after “any combination of” in subdivision (d); substituted “Section 51231, 51238, or 51238.1” for “Section 51231 or Section 51238” after “pursuant to” in the first sentence; substituted “the” for “such” after “and hearing that,” and hyphenated “open space” after “agricultural, recreational or” in the second sentence of subdivision (e); substituted “a manner that preserves” for “such a manner as to preserve” after “of land in” and substituted “the” for “such” after “commercial purposes, if” in the first paragraph of subdivision (o). Stats. 1998, Ch. 690 (SB 1835), in effect January 1, 1999, substituted “that” for “which” after “All land” and substituted “Natural Resource” for “Soil” after “in the” in the first sentence of paragraph (1) of subdivision (c); and deleted “the Director of” before “Department” twice in paragraph (1) and subparagraph (C) of paragraph (2) of subdivision (l). Stats. 1999, Ch. 1018 (SB 985), in effect January 1, 2000, substituted “seawater” for “sea water” in subdivision (k), and added “in its agricultural or natural state” after “land” in the first sentence of, and added the third sentence to subdivision (n).

Note.—Stats. 1969, p. 2806, also provided: If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

The provisions of this act shall be given prospective application only and shall not be construed in a manner which would impair the obligation of any existing contract or agreement entered into pursuant to the California Land Conservation Act of 1965, prior to the effective date of this act. However, this section is not intended to prevent the provisions of this act from being incorporated by reference into existing contracts or agreements, if such existing contracts or agreements provide for incorporation by reference of amendments subsequently enacted by the Legislature; provided further, however, that this act shall not, by incorporation by reference or otherwise, invalidate any restrictions, terms, or conditions, including payments and fees, more restrictive than or in addition to those required by this chapter.

Section 9 of Stats. 1998, Ch. 690 (SB 1835), provided that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

51202. Use of county-assessed values. [Repealed by Stats. 1990, Ch. 841, in effect January 1, 1991.]

Note.—See note to Section 51201.

51203. Current fair market valuations subject to equalization. The current fair market valuations referred to in Section 51283, upon the request of either of the parties to the contract, shall be subject to appeal to the county board pursuant to Section 1605 of the Revenue and Taxation Code.

History.—Added by Stats. 1967, p. 3215, in effect November 8, 1967 as Section 51204. Stats. 1969, p. 2807, in effect November 10, 1969, renumbered former Section 51204 as 51203 and substituted “section” for “Section 51261.2 and”. Stats. 1990, Ch. 841, in effect January 1, 1991, substituted “current fair market” for “assessed” after “The”, substituted “shall” for “will” after “contract,” and substituted “appeal to the county board” for “equalization” after “subject to”. Stats. 2003, Ch. 471 (SB 1062), in effect January 1, 2004, substituted “1605” for “1604” after “pursuant to Section” in the first sentence.

Construction.—This section applies only to parties to a land conservation contract, and the State is not a party thereto. Therefore, in seeking to challenge an assessor’s valuation required prior to approval of the cancellation of a contract, a State agency need not exhaust the administrative remedy provided by this section in order to bring a court action. *People ex rel. Dept. of Conservation v. Triplett*, 48 Cal.App.4th 233.

51205. Inclusion within agricultural preserve; “agricultural land.” Notwithstanding any provisions of this chapter to the contrary, land devoted to recreational use or land within a scenic highway corridor, a wildlife habitat area, a saltpond, a managed wetland area, or a submerged area may be included within an agricultural preserve pursuant to this chapter. When such land is included within an agricultural preserve, the city or county within which it is situated may contract with the owner for the purpose of restricting the land to recreational or open space use and uses compatible therewith in the same manner as provided in this chapter for land devoted to agricultural use. For purposes of this section, where the term “agricultural land” is used in this chapter, it shall be deemed to include land devoted to recreational use and land within a scenic highway corridor, a wildlife habitat area, a saltpond, a managed wetland area, or a submerged area, and where the term “agricultural use” is used in this chapter, it shall be deemed to include recreational and open space use.

History.—Added by Stats. 1969, p. 3023, in effect November 10, 1969. Stats. 1970, p. 2317, in effect November 23, 1970, added the provisions allowing “land devoted to recreational use” to be included within an agricultural preserve.

51205.1. Scenic highway corridor. Notwithstanding any provisions of this chapter to the contrary, land within a scenic highway corridor, as defined in subdivision (i) of Section 51201, shall, upon the request of the owner, be included in an agricultural preserve pursuant to this chapter. When such land is included within an agricultural preserve, the city or county within which it is situated shall contract with the owner for the purpose of restricting the land to agricultural use as defined in subdivision (b), recreational use as defined in subdivision (n), open-space use as defined in subdivision (o), compatible use as defined in subdivision (e), or any combination of such uses.

History.—Stats. 1978, Ch. 1120, in effect January 1, 1979, added by Stats. 1978.

51206. Interpretation of chapter; Department of Conservation. The Department of Conservation may meet with and assist local, regional,

state, and federal agencies, organizations, landowners, or any other person or entity in the interpretation of this chapter. The department may research, publish, and disseminate information regarding the policies, purposes, procedures, administration, and implementation of this chapter. This section shall be liberally construed to permit the department to advise any interested person or entity regarding this chapter.

History.—Added by Stats. 1986, Ch. 607, effective January 1, 1987.

51207. Report to the Legislature. (a) On or before May 1 of every other year, the Department of Conservation shall report to the Legislature regarding the implementation of this chapter by cities and counties.

(b) The report shall contain, but not be limited to, the number of acres of land under contract in each category and the number of acres of land which were removed from contract through cancellation, eminent domain, annexation, or nonrenewal.

(c) The report shall also contain the following specific information relating to not less than one-third of all cities and counties participating in the Williamson Act program:

(1) The number of contract cancellation requests for which notices of hearings were mailed to the Director of Conservation pursuant to Section 51284 which were approved by boards or councils during the prior two years or for which approval is still pending by boards or councils.

(2) The amount of cancellation fees payable to the county treasurer as deferred taxes and which are required to be transmitted to the Controller pursuant to subdivision (d) of Section 51283 which have not been collected or which remain unpaid.

(3) The total number of acres covered by certificates of cancellation of contracts during the previous two years.

(4) The number of nonrenewal and withdrawal of renewal notices received pursuant to Section 51245 and the number of expiration notices received pursuant to Section 51246 during the previous two years.

(5) The number of acres covered by nonrenewal notices that were not withdrawn and expiration notices during the previous two years.

(d) The department may recommend changes to this chapter which would further promote its purposes.

(e) The Legislature may, upon request of the department, appropriate funds from the deferred taxes deposited in the General Fund pursuant to subdivision (d) of Section 51283 in an amount sufficient to prepare the report required by this section.

History.—Added by Stats. 1986, Ch. 607, effective January 1, 1987. Stats. 1989, Ch. 943, in effect January 1, 1990, added "(a)" before the former first sentence, substituted "March 1" for "December 31" in subdivision (a), added "(b)" before the former second sentence, added subdivisions (c) and (e) and added "(d)" before the former third sentence. Stats. 1993, Ch. 84, in effect January 1, 1994, substituted "May" for "March" after "On or before" in subdivision (a). Stats. 1994, Ch. 1174, in effect January 1, 1995, substituted "every other year beginning in 1996" for "each year" after "May 1 of" in subdivision (a); substituted "two years" for "year" after "during the prior" in paragraph (1), and substituted "two years" for "year" after "during the previous" in paragraphs (3), (4), and (5) of subdivision (c). Stats. 2001, Ch. 745 (SB 1191), in effect October 12, 2001, deleted "beginning in 1996" after "every other year" in subdivision (a).

Article 2. Declaration

- § 51220. Legislative findings.
- § 51220.5. Legislative findings; “compatible uses”.
- § 51221. Declaration as to expenditure of public funds; purpose and necessity.
- § 51222. Retaining of agricultural lands by local officials and landowners.

51220. Legislative findings. The legislature finds:

(a) That the preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state’s economic resources, and is necessary not only to the maintenance of the agricultural economy of the state, but also for the assurance of adequate, healthful and nutritious food for future residents of this state and nation.

(b) That the agricultural work force is vital to sustaining agricultural productivity; that this work force has the lowest average income of any occupational group in this state; that there exists a need to house this work force of crisis proportions which requires including among agricultural uses the housing of agricultural laborers; and that such use of agricultural land is in the public interest and in conformity with the state’s Farmworker Housing Assistance Plan.

(c) That the discouragement of premature and unnecessary conversion of agricultural land to urban uses is a matter of public interest and will be of benefit to urban dwellers themselves in that it will discourage discontinuous urban development patterns which unnecessarily increase the costs of community services to community residents.

(d) That in a rapidly urbanizing society agricultural lands have a definite public value as open space, and the preservation in agricultural production of such lands, the use of which may be limited under the provisions of this chapter, constitutes an important physical, social, esthetic and economic asset to existing or pending urban or metropolitan developments.

(e) That land within a scenic highway corridor or wildlife habitat area as defined in this chapter has a value to the state because of its scenic beauty and its location adjacent to or within view of a state scenic highway or because it is of great importance as habitat for wildlife and contributes to the preservation or enhancement thereof.

(f) For these reasons, this chapter is necessary for the promotion of the general welfare and the protection of the public interest in agricultural land.

History.—Stats. 1968, p. 2155, in effect November 13, 1968, deleted “prime” preceding “agricultural” throughout the section. Stats. 1969, p. 3024, in effect November 10, 1969, relettered subdivision (d) as subdivision (e) and added subdivision (d). Stats. 1980, Ch. 1219, in effect January 1, 1981, added a new subdivision (b) and relettered former subdivisions (b), (c), (d) and (e) as (c), (d), (e) and (f), respectively.

Note.—Section 5 of Stats 1980, Ch. 1219, provided no payment by state to local governments because of this act; however, a local agency or school district may pursue other remedies to obtain reimbursement.

Construction.—“Urban development”, as used in this section and in former Section 51282.1, has no fixed, precise definition. Whether a residential development is urban or rural must be determined by evaluating factors relating to the varying characteristics of individual projects. In determining whether cancellation of a land use contract would not result in discontinuous patterns of urban development, a required finding for a window period cancellation under former Section 51282.1, a local government had to evaluate an individual proposed project within the context of the state’s conservation plan. Relevant factors included density, surrounding development, preservation of open space, traffic generated, and availability of public services like water, schools and police and fire protection. However, a requested development of 389 homes and 8 acres of commercial services proposed by a land owner seeking cancellation of a land use contract under former Section 51282.1 was, as a matter of law, an “urban development” within the meaning of a required finding

thereunder that cancellation not lead to a discontiguous pattern of urban development. *Honey Springs Homeowners Assn. v. Board of Supervisors*, 157 Cal.App.3d 1122. Restriction to agricultural use provided for in the Williamson Act was created to control urban development; and to pass constitutional muster, a restriction must be enforceable in the face of imminent urban development, and may not be terminable merely because such development is desirable or profitable to the landowner. *Lewis v. City of Hayward*, 177 Cal.App.3d 103.

51220.5. Legislative finding; “compatible uses.” The Legislature finds and declares that agricultural operations are often hindered or impaired by uses which increase the density of the permanent or temporary human population of the agricultural area. For this reason, cities and counties shall determine the types of uses to be deemed “compatible uses” in a manner which recognizes that a permanent or temporary population increase often hinders or impairs agricultural operations.

History.—Added by Stats. 1986, Ch. 607, effective January 1, 1987.

51221. Declaration as to expenditure of public funds; purpose and necessity. The Legislature further declares that the expenditure of public funds under the provisions of this chapter is in the public interest and is necessary to the accomplishment of the purposes herein set forth.

51222. Retaining of agricultural lands by local officials and landowners. The Legislature further declares that it is in the public interest for local officials and landowners to retain agricultural lands which are subject to contracts entered into pursuant to this act in parcels large enough to sustain agricultural uses permitted under the contracts. For purposes of this section, agricultural land shall be presumed to be in parcels large enough to sustain their agricultural use if the land is (1) at least 10 acres in size in the case of prime agricultural land, or (2) at least 40 acres in size in the case of land which is not prime agricultural land.

History.—Added by Stats. 1984, Ch. 1111, in effect January 1, 1985. Stats. 1985, Ch. 788, effective January 1, 1986, deleted “their” after “sustain”, and substituted “uses permitted under the contracts” for “use” after “agricultural” in the first sentence of the first paragraph. Stats. 1990, Ch. 841, in effect January 1, 1991, deleted the former second paragraph which provided “This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date.”

Article 2.5. Agricultural Preserves *

- § 51230. Establishment of preserves; notice and hearing; procedure.
- § 51230.1. Transfer of ownership to an immediate family member.
- § 51230.2. Subdivisions.
- § 51231. Rules governing administration and establishment of preserves.
- § 51232. Notice to owners of proposal to disestablish or alter boundaries.
- § 51233. Notice of proposed establishment.
- § 51234. Submission of proposal.
- § 51235. Annexation, detachment, incorporation or disincorporation of land within preserve.
- § 51236. Removal of land from preserve as equivalent to notice of nonrenewal.
- § 51237. Filing of map and resolution.
- § 51237.5. Filing of map with Director of Conservation.
- § 51238. Facilities as compatible uses.
- § 51238.1. Compatible uses.
- § 51238.2. Compatible uses; mineral extraction.
- § 51238.3. Pre-June 7, 1994 approved compatible uses.
- § 51238.5. Owner’s agreement permitting use of land for free public recreation: Indemnification against claims; absence of implied dedication.
- § 51239. Advisory board.

* Article 2.5 was added by Stats. 1969, p. 2806, in effect November 10, 1969.

51230. Establishment of preserves; notice and hearing; procedure: Beginning January 1, 1971, any county or city having a general plan, and until December 31, 1970, any county or city, by resolution, and after a public hearing may establish an agricultural preserve. Notice of the hearing shall be published pursuant to Section 6061, and shall include a legal description, or the assessors parcel number, of the land which is proposed to be included within the preserve. The preserves shall be established for the purpose of defining the boundaries of those areas within which the city or county will be willing to enter into contracts pursuant to this act. An agricultural preserve shall consist of no less than 100 acres; provided, that in order to meet this requirement two or more parcels may be combined if they are contiguous or if they are in common ownership; and further provided, that in order to meet this requirement land zoned as timberland production pursuant to Chapter 6.7 (commencing with Section 51100) may be taken into account.

A county or city may establish agricultural preserves of less than 100 acres if it finds that smaller preserves are necessary due to the unique characteristics of the agricultural enterprises in the area and that the establishment of preserves of less than 100 acres is consistent with the general plan of the county or city.

An agricultural preserve may contain land other than agricultural land, but the use of any land within the preserve and not under contract shall within two years of the effective date of any contract on land within the preserve be restricted by zoning, including appropriate minimum parcel sizes that are at a minimum consistent with this chapter, in such a way as not to be incompatible with the agricultural use of the land, the use of which is limited by contract in accordance with this chapter.

Failure on the part of the board or council to restrict the use of land within a preserve but not subject to contract shall not be sufficient reason to cancel or otherwise invalidate a contract.

History.—Stats. 1976, Ch. 176, p. 316, in effect May 24, 1976, added the balance of the fourth sentence of the first paragraph after “ownership”. Stats. 1977, Ch. 853, September 17, 1977, added “preserve” after “timberland” in the fourth sentence of the first paragraph. Stats. 1982, Ch. 1489, in effect January 1, 1983, deleted “of this code” after “Section 6061” in the second sentence, substituted “The” for “Such” before “preserves” in the third sentence, and substituted “production” for “preserve” after “timberland” in the fourth sentence of the first paragraph. Stats. 1999, Ch. 1018 (SB 985), in effect January 1, 2000, substituted “zoning, including appropriate minimum parcel sizes that are at a minimum consistent with this chapter,” for “zoning or other suitable means” after “restricted by” in the first sentence of the third paragraph.

Implementation of open-space law permissive—Steps taken by a board of supervisors, including making studies and preparing forms and procedures, did not irrevocably commit the board to implement the Williamson Act. Implementation of the act is permissive, not mandatory. *Kelsey v. Colwell*, 30 Cal.App.3d 590.

51230.1. Transfer of ownership to an immediate family member.

(a) Nothing contained in this chapter shall prevent the transfer of ownership from one immediate family member to another of a portion of land which is currently designated as an agricultural preserve in accordance with the provisions of this chapter, if all of the following conditions are satisfied:

(1) The parcel to be transferred is at least 10 acres in size in the case of prime agricultural land or at least 40 acres in size in the case of land which is not prime agricultural land, and otherwise meets the requirements of Section 51222.

(2) The parcel to be transferred conforms to the applicable local zoning and land division ordinances and any applicable local coastal program certified pursuant to Chapter 6 (commencing with Section 30500) of Division 20 of the Public Resources Code.

(3) The parcel to be transferred complies with all applicable requirements relating to agricultural income and permanent agricultural improvements which are imposed by the county or city as a condition of a contract executed pursuant to Article 3 (commencing with Section 51240) covering the land of which the parcel to be transferred is a portion. For purposes of this paragraph, if the contracted land already complies with these requirements, the portion of that land to be transferred shall be deemed to comply with these requirements.

(4) There exists a written agreement between the immediate family members who are parties to the proposed transfer that the land which is subject to a contract executed pursuant to Article 3 (commencing with Section 51240) and the portion of that land which is to be transferred will be operated under the joint management of the parties subject to the terms and conditions and for the duration of the contract executed pursuant to Article 3 (commencing with Section 51240).

(b) A transfer of ownership described in subdivision (a) shall have no effect on any contract executed pursuant to Article 3 (commencing with Section 51240) covering the land of which a portion was the subject of that transfer. The portion so transferred shall remain subject to that contract.

(c) For purposes of this section, “immediate family” means the spouse of the landowner, the natural or adopted children of the landowner, the parents of the landowner, or the siblings of the landowner.

History.—Added by Stats. 1983, Ch. 880, in effect January 1, 1984. Stats. 1987, Ch. 232, in effect January 1, 1988, deleted former subsections (a)(1) and (a)(2), which provided “(1) The parcel transferred conforms to the local zoning and land division ordinances.” and “(2) A written agreement between the landowner and the immediate family member transferring land which is currently designated as an agricultural preserve to be operated under joint management of the agreeing parties for the duration of the terms and conditions as they relate to land as defined by this chapter”; added subsections (a)(1), (a)(2), (a)(3), and (a)(4); added “the” after “covering” in subdivision (b); and added subdivision (c).

51230.2. Subdivisions. (a) Except as provided in Section 51238, and notwithstanding Section 51222 or 66474.4, a landowner may subdivide land that is currently designated as an agricultural preserve if all of the following apply:

(1) The parcel to be sold or leased is no more than five acres.

(2) The parcel shall be sold or leased to a nonprofit organization, a city, a county, a housing authority, or a state agency. A lessee that is a nonprofit organization shall not sublease that parcel without the written consent of the landowner.

(3) The parcel to be sold or leased shall be subject to a deed restriction that limits the use of the parcel to agricultural laborer housing facilities for not less than 30 years. That deed restriction shall also require that parcel to be merged with the parcel from which it was subdivided when the parcel ceases to be used for agricultural laborer housing.

(4) There is a written agreement between the parties to the sale or lease and their successors to operate the parcel to be sold or leased under joint management of the parties, subject to the terms and conditions and for the duration of the contract executed pursuant to Article 3 (commencing with Section 51240).

(5) The parcel to be sold or leased is (A) within a city or (B) in an unincorporated territory or sphere of influence that is contiguous to one or more parcels that are already zoned residential, commercial, or industrial and developed with existing residential, commercial, or industrial uses.

(b) The agricultural labor housing project shall be designed to abate, to the extent practicable, impacts on adjacent landowners' agricultural husbandry practices. The final plan for the housing shall include an addendum that explains what features will be included to meet this goal.

(c) A subdivision of land pursuant to this section shall not affect any contract executed pursuant to Article 3 (commencing with Section 51240). The parcel to be sold or leased shall remain subject to that contract.

History.—Added by Stats. 1999, Ch. 967 (AB 1505), in effect January 1, 2000.

51231. Rules governing administration and establishment of preserves. For the purposes of this chapter, the board or council, by resolution, shall adopt rules governing the administration of agricultural preserves, including procedures for initiating, filing, and processing requests to establish agricultural preserves. Rules related to compatible uses shall be consistent with the provisions of Section 51238.1. Those rules shall be applied uniformly throughout the preserve. The board or council may require the payment of a reasonable application fee. The same procedure that is required to establish an agricultural preserve shall be used to disestablish or to enlarge or diminish the size of an agricultural preserve. In adopting rules related to compatible uses, the board or council may enumerate those uses, including agricultural laborer housing which are to be considered to be compatible uses on contracted lands separately from those uses which are to be considered to be compatible uses on lands not under contract within the agricultural preserve.

History.—Stats. 1978, Ch. 1120, in effect January 1, 1979, deleted the phrase after “preserve,” and added a period and the new sentences. Stats. 1980, Ch. 1219, in effect January 1, 1981, added “including agricultural laborer housing” after the second “uses” in the fifth sentence. Stats. 1994, Ch. 1251, in effect January 1, 1995, added second sentence, and substituted “Those” for “Such” before “rules” in the third sentence. Stats. 1995, Ch. 686, in effect October 10, 1995, operative January 1, 1996, substituted “provisions of” for “principles set forth in” after “consistent with the” in the second sentence.

Note.—Section 5 of Stats. 1980, Ch. 1219, provided no payment by state to local governments because of this act; however, a local agency or school district may pursue other remedies to obtain reimbursement.

51232. Notice to owners of proposal to disestablish or alter boundaries. In the event any proposal to disestablish or to alter the boundary of an agricultural preserve will remove land under contract from such a preserve, notice of the proposed alteration or disestablishment and the date of the hearing shall be furnished by the board or council to the owner of the land by certified mail directed to him at his latest address known to the board or council. Such notice shall also be published pursuant to Section

6061 and shall be furnished by first-class mail to each owner of land under contract, any portion of which is situated within one mile of the exterior boundary of the land to be removed from the preserve.

History.—Stats. 1978, Ch. 1120, in effect January 1, 1979, inserted “be published pursuant to Section 6061 and shall” after “also” of the third sentence and in that same sentence deleted the wordage after “land” and added the remaining new language.

51233. Notice of proposed establishment. When a county proposes to establish, disestablish, or alter the boundary of an agricultural preserve it shall give written notice at least two weeks before the hearing to the local agency formation commission and to every city within the county within one mile of the exterior boundaries of the preserve.

History.—Stats. 1971, p. 713, in effect March 4, 1972, added “within the county” after “city”. Stats. 1978, in effect January 1, 1979, added “, disestablish, or alter the boundary of” after “establish”.

51234. Submission of proposal. Any proposal to establish an agricultural preserve shall be submitted to the planning department of the county or city having jurisdiction over the land. If the county or city has no planning department, a proposal to establish an agricultural preserve shall be submitted to the planning commission. Within 30 days after receiving such a proposal, the planning department or planning commission shall submit a report thereon to the board or council. However, the board or council may extend the time allowed for an additional period not to exceed 30 days.

The report shall include a statement that the preserve is consistent with the general plan, and the board or council shall make a finding to that effect. Final action upon the establishment of an agricultural preserve may not be taken by the board or council until the report required by this section is received from the planning department or planning commission, or until the required 30 days have elapsed and any extension thereof granted by the board or council has elapsed.

History.—Stats. 1999, Ch. 1018 (SB 985) , in effect January 1, 2000, substituted a period for the semicolon after “council” in the third sentence, and substituted “However” for “provided, However, that” at the beginning of the new fourth sentence of the first paragraph; and deleted “, or inconsistent,” after “consistent” and substituted “that” for “such” after “finding to” in the first sentence of the second paragraph.

51235. Annexation, detachment, incorporation or disincorporation of land within preserve. An agricultural preserve shall continue in full effect following annexation, detachment, incorporation or disincorporation of land within the preserve.

Any city or county acquiring jurisdiction over land in a preserve by annexation, detachment, incorporation or disincorporation shall have all the rights and responsibilities specified in this act for cities or counties including the right to enlarge, diminish or disestablish an agricultural preserve within its jurisdiction.

History.—Stats. 1984, Ch. 523, in effect July 17, 1984, added “detachment” after “annexation,” in the first and second paragraphs.

Note.—Section 4 of Stats. 1984, Ch. 523 provided no payment by state to local governments because of this act, however, a local agency or school district may pursue any remedies to obtain reimbursement.

51236. Removal of land from preserve as equivalent to notice of nonrenewal. The effect of removal of land under contract from an agricultural preserve shall be the equivalent of notice of nonrenewal by the

city or county removing the land from the agricultural preserve and such city or county shall, at least 60 days prior to the next renewal date following the removal, serve a notice of nonrenewal as provided in Section 51245. Such notice of nonrenewal shall be recorded as provided in Section 51248.

51237. Filing of map and resolution. Whenever an agricultural preserve is established, and so long as it shall be in effect, a map of such agricultural preserve and the resolution under which the preserve was established shall be filed and kept current by the city or county with the county recorder.

History.—Stats. 1971, p. 1811, in effect March 4, 1972, deleted “and the Director of Agriculture” from the first sentence.

51237.5. Filing of map with Director of Conservation. On or before the first day of September of each year, each city or county in which any agricultural preserve is located shall file with the Director of Conservation a map of each city or county and designate thereon all agricultural preserves in existence at the end of the preceding fiscal year.

History.—Added by Stats. 1971, p. 1811, in effect March 4, 1972. Stats. 1974, Ch. 544, p. 1252, in effect January 1, 1975, substituted “Director of Food and Agriculture” for “Director of Agriculture”. Stats. 1984, Ch. 851, in effect January 1, 1985, substituted “Conservation” for “Food and Agriculture” after “Director of”.

51238. Facilities as compatible uses. (a) (1) Notwithstanding any determination of compatible uses by the county or city pursuant to this article, unless the board or council after notice and hearing makes a finding to the contrary, the erection, construction, alteration, or maintenance of gas, electric, water, communication, or agricultural laborer housing facilities are hereby determined to be compatible uses within any agricultural preserve.

(2) No land occupied by gas, electric, water, communication, or agricultural laborer housing facilities shall be excluded from an agricultural preserve by reason of that use.

(b) The board of supervisors may impose conditions on lands or land uses to be placed within preserves to permit and encourage compatible uses in conformity with Section 51238.1, particularly public outdoor recreational uses.

History.—Stats. 1972, p. 2687, in effect March 7, 1973, added the second paragraph. Stats. 1978, Ch. 1120, in effect January 1, 1979, deleted “utility” after “communication” in the first and second sentences of the first paragraph. Stats. 1980, Ch. 1219, in effect January 1, 1981, added “or agricultural laborer housing” after “communication” in the first and second sentences of the first paragraph. Stats. 1994, Ch. 1251, in effect January 1, 1995, substituted “that” for “such” after “by reason of” in the second sentence of the first paragraph; added “or land uses” after “conditions on lands”, and substituted “uses in conformity with Section 51238.1,” after “and encourage compatible” in the second paragraph. Stats. 1999, Ch. 967 (AB 1505), in effect January 1, 2000, added subdivision letters and numbers (a), (1) and (2), and (b).

Note.—Section 5 of Stats. 1980, Ch. 1219, provided no payment by state to local governments because of this act; however, a local agency or school district may pursue other remedies to obtain reimbursement.

51238.1. Compatible uses. (a) Uses approved on contracted lands shall be consistent with all of the following principles of compatibility:

(1) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.

(2) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural preserves. Uses that significantly

displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping.

(3) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

In evaluating compatibility a board or council shall consider the impacts on noncontracted lands in the agricultural preserve or preserves.

(b) A board or council may include in its compatible use rules or ordinance conditional uses which, without conditions or mitigations, would not be in compliance with this section. These conditional uses shall conform to the principles of compatibility set forth in subdivision (a) or, for nonprime lands only, satisfy the requirements of subdivision (c).

(c) In applying the criteria pursuant to subdivision (a), the board or council may approve a use on nonprime land which, because of onsite or offsite impacts, would not be in compliance with paragraphs (1) and (2) of subdivision (a), provided the use is approved pursuant to a conditional use permit that shall set forth findings, based on substantial evidence in the record, demonstrating the following:

(1) Conditions have been required for, or incorporated into, the use that mitigate or avoid those onsite and offsite impacts so as to make the use consistent with the principles set forth in paragraphs (1) and (2) of subdivision (a) to the greatest extent possible while maintaining the purpose of the use.

(2) The productive capability of the subject land has been considered as well as the extent to which the use may displace or impair agricultural operations.

(3) The use is consistent with the purposes of this chapter to preserve agricultural and open-space land or supports the continuation of agricultural uses, as defined in Section 51205, or the use or conservation of natural resources, on the subject parcel or on other parcels in the agricultural preserve. The use of mineral resources shall comply with Section 51238.2.

(4) The use does not include a residential subdivision.

For the purposes of this section, a board or council may define nonprime land as land not defined as “prime agricultural land” pursuant to subdivision (c) of Section 51201 or as land not classified as “agricultural land” pursuant to subdivision (a) of Section 21060.1 of the Public Resources Code.

Nothing in this section shall be construed to overrule, rescind, or modify the requirements contained in Sections 51230 and 51238 related to noncontracted lands within agricultural preserves.

History.—Added by Stats. 1994, Ch. 1251, in effect January 1, 1995.

51238.2. Compatible uses; mineral extraction. Mineral extraction that is unable to meet the principles of Section 51238.1 may nevertheless be approved as compatible use if the board or council is able to document that

(a) the underlying contractual commitment to preserve prime land as defined in subdivision (c) of Section 51201, or (b) the underlying contractual commitment to preserve nonprime land for open-space use as defined in subdivision (c) of Section 51201, will not be significantly impaired.

Conditions imposed on mineral extraction as a compatible use of contracted land shall include compliance with the reclamation standards adopted by the Mining and Geology Board pursuant to Section 2773 of the Public Resources Code, including the applicable performance standards for prime agricultural land and other agricultural land, and no exception to these standards may be permitted.

For purposes of this section, “contracted land” means all land under a single contract for which an applicant seeks a compatible use permit.

History.—Added by Stats. 1994, Ch. 1251, in effect January 1, 1995.

51238.3. Pre-June 7, 1994 approved compatible uses. (a) The requirements of Sections 51238.1 and 51238.2 shall not apply to compatible uses for which an application was submitted to the city or county prior to June 7, 1994, provided that the use constituted a “compatible use” as that term was defined by this chapter either at the time the application was submitted, or at the time the Williamson Act contract was signed with respect to the subject contract lands, whichever is later.

(b) Neither shall the requirements of Sections 51238.1 and 51238.2 apply to land uses of contracted lands in place prior to June 7, 1994, that constituted a “compatible use” as the term “compatible use” was defined by this chapter either at the time the use was initiated, or at the time the Williamson Act contract was signed with respect to the subject contract lands, whichever is later.

(c) Neither shall the requirements of Sections 51238.1 and 51238.2 apply to uses that are expressly specified within the contract itself prior to June 7, 1994, and that constituted a “compatible use” as the term “compatible use” was defined by this chapter at the time that Williamson Act contract was signed with respect to the subject contract lands, or at the time the contract was amended to include the uses, whichever is later. For purposes of this subdivision, the requirements of Sections 51238.1 and 51238.2, effective January 1, 1995, shall apply to contracts for which contract nonrenewal was initiated and was withdrawn after January 1, 1995.

History.—Added by Stats. 1994, Ch. 1251, in effect January 1, 1995.

51238.5. Owner’s agreement permitting use of land for free public recreation: Indemnification against claims; absence of implied dedication. (a) If an owner of land agrees to permit the use of his or her land for free public recreation, the board or council may agree to indemnify the owner against all claims arising from that public use. The owner’s agreement that the land be used for free, public recreation shall not be construed as an implied dedication to that use.

(b) If an owner of land agrees to permit the use of his or her land for agricultural laborer housing facilities authorized pursuant to Section 51238,

the city, county, housing authority, state agency, or nonprofit organization may indemnify the owner against all claims arising from that use.

History.—Added by Stats. 1972, p. 2687, in effect March 7, 1973. Stats. 1978, Ch. 1120, in effect January 1, 1979, substituted “or council may agree to” for “of supervisors may” in the first sentence. Stats. 1999, Ch. 967 (AB 1505), in effect January 1, 2000, added “(a)” before “If.”, substituted “the” for “such” after “indemnify”, and substituted “that” for “such” after “from” in the first sentence, and substituted “the” for “his” after “that” and substituted “that” for “such” after “dedication to” in the second sentence of subdivision (a); and added subdivision (b).

51239. Advisory board. The board or council may appoint an advisory board, the members of which shall serve at the pleasure of the board or council and may be paid their expenses. They shall advise the board or council on the administration of the agricultural preserves in the county or city and on any matters relating to contracts entered into pursuant to this chapter.

Article 3. Contracts

- § 51240. Authority of city or county to contract.
- § 51241. Other owners of prime agricultural land to whom contract to be offered.
- § 51242. Lands as to which city or county may contract.
- § 51243. Contract provisions.
- § 51243.5. Notice to city of intention to consider contract. [Repealed.]
- § 51243.5. Protest: record of filing.
- § 51243.6. Legislative findings.
- § 51244. Term of contract.
- § 51244.5. Term of 10 years or more; automatic renewal.
- § 51245. Notice of nonrenewal.
- § 51246. Termination of contract.
- § 51247. Information to city or county by landowner.
- § 51248. Recording with county recorder.
- § 51248.5. Filing of fictitious contracts.
- § 51249. Filing sample copy of contract with Director of Conservation.
- § 51250. Breaches of contract.
- § 51251. Authority of state to bring court enforcement action.
- § 51252. Assessment as open space land.
- § 51253. Amendment of prior contracts to conform to amended chapter.
- § 51254. Rescission and entry into new contract.
- § 51255. Rescission and entry into easement agreement.
- § 51256. Rescission and entry into new contract on uncontracted land. [Repealed.]
- § 51256. Rescission and entry into new contract on uncontracted land.
- § 51256.1. Approval by Secretary of Resources.
- § 51256.2. Chino Basin.
- § 51257. Boundary adjustments. [Repealed.]
- § 51257. Lot line adjustments.

51240. Authority of city or county to contract. Any city or county may by contract limit the use of agricultural land for the purposes of preserving such land pursuant and subject to the conditions set forth in the contract and in this chapter. A contract may provide for restrictions, terms, and conditions, including payments and fees, more restrictive than or in addition to those required by this chapter.

History.—Stats. 1959, p. 2806, in effect November 10, 1969, deleted provision for expenditure of public funds and limitation to “prime” agricultural lands from the first sentence and added the second sentence.

51241. Other owners of prime agricultural land to whom contract to be offered. If such a contract is made with any landowner, the city or county shall offer such a contract under similar terms to every other owner of agricultural land within the agricultural preserve in question.

However, except as required by other provisions of this chapter, the provisions of this section shall not be construed as requiring that all contracts affecting land within a preserve be identical, so long as such differences as exist are related to differences in location and characteristics of the land and are pursuant to uniform rules adopted by the county or city.

History.—Stats. 1969, p. 2806, in effect November 10, 1969, deleted “prime” from before “agricultural land” in the first sentence or the first paragraph and added the second paragraph.

51242. Lands as to which city or county may contract. No city or county may contract with respect to any land pursuant to this chapter unless the land:

(a) Is devoted to agricultural use.

(b) Is located within an area designated by a city or county as an agricultural preserve.

History.—Stats. 1969, p. 2806, in effect November 10, 1969, deleted the 100 acre restriction in subdivision (b) and deleted former subdivision (c).

51243. Contract provisions. Every contract shall do both of the following:

(a) Provide for the exclusion of uses other than agricultural, and other than those compatible with agricultural uses, for the duration of the contract.

(b) Be binding upon, and inure to the benefit of, all successors in interest of the owner. Whenever land under a contract is divided, the owner of any parcel may exercise, independent of any other owner of a portion of the divided land, any of the rights of the owner in the original contract, including the right to give notice of nonrenewal and to petition for cancellation. The effect of any such action by the owner of a parcel created by the division of land under contract shall not be imputed to the owners of the remaining parcels and shall have no effect on the contract as it applies to the remaining parcels of the divided land. Except as provided in Section 51243.5, on and after the effective date of the annexation by a city of any land under contract with a county, the city shall succeed to all rights, duties and powers of the county under the contract.

History.—Stats. 1967, p. 3214, in effect November 8, 1967, substantially revised subdivision (b) and added subdivision (c). Stats. 1968, p. 852, in effect November 13, 1968, substantially revised subdivision (b). Stats. 1969, p. 2806, in effect November 10, 1969, substantially revised the entire section. Stats. 1971, p. 4889 (First Extra Session), in effect December 8, 1971, substituted “the city has filed and the local agency formation commission has approved a protest to” for “the city protested the execution of” in the fourth sentence of subdivision (b). Stats. 1989, Ch. 943, in effect January 1, 1990, deleted “such” before “contract” in first sentence; and substituted “the” for “such” before “contract, unless” and “city at” in fourth sentence, substituted “that” for “such” after “only to” in the sixth sentence, and added the seventh sentence to subdivision (b). Stats. 1990, Ch. 841, in effect January 1, 1991, deleted “unless the land being annexed was within one mile of the city at the time that the contract was initially executed, the city has filed and the local agency formation commission has approved a protest to the contract pursuant to Section 51243.5, and the city states its intent not to succeed in its resolution of intention to annex.” after “the contract” in the fourth sentence of subdivision (b), deleted the former fifth, sixth, and seventh sentences, which provided “If the city does not exercise its option to succeed, the contract becomes null and void as to the land actually being annexed on the date of annexation. In the event that only part of the land under contract was within one mile of the city the option of the city shall extend only to that part. Within 30 days of the city stating its intent not to succeed, the city shall deliver a notice of its action to the Director of Conservation.”; and added the fifth sentence. Stats. 1998, Ch. 690 (SB 1835), in effect January 1, 1999, added “do both of the following” after “shall” in the first sentence; substituted “Be” for “Shall be” before “binding upon” in the first sentence, substituted “Except . . . effective date of” for “On” before “the annexation” in the fourth sentence and deleted the former fifth sentence of subdivision (b) which provided “The amendments made to this section by Assembly Bill No. 2764 of the 1989–90 Regular Session shall not apply to any executed contract for which a valid protest was filed in accordance with applicable requirements prior to January 1, 1991.”

51243.5. Notice to city of intention to consider contract. [Repealed by Stats. 1990, Ch. 841, in effect January 1, 1991.]

51243.5. **Protest: record of filing.** (a) This section shall apply only to land that was within one mile of a city boundary when a contract was executed pursuant to this article and for which the contract was executed prior to January 1, 1991.

(b) For any proposal that would result in the annexation to a city of any land that is subject to a contract under this chapter, the local agency formation commission shall determine whether the city may exercise its option to not succeed to the rights, duties, and powers of the county under the contract.

(c) In making the determination required by subdivision (b), pursuant to Section 51206, the local agency formation commission may request, and the Department of Conservation shall provide, advice and assistance in interpreting the requirements of this section. If the department has concerns about an action proposed to be taken by a local agency formation commission pursuant to this section or Section 51243.6, the department shall advise the commission of its concerns, whether or not the commission has requested it to do so. The commission shall address the department's concerns in any hearing to consider the proposed annexation or a city's determination whether to exercise its option not to succeed to a contract, and shall specifically find that substantial evidence exists to show that the city has the present option under this section to decline to succeed to the contract.

(d) A city may exercise its option to not succeed to the rights, duties, and powers of the county under the contract if both of the following had occurred prior to December 8, 1971:

(1) The land being annexed was within one mile of the city's boundary when the contract was executed.

(2) The city had filed with the county board of supervisors a resolution protesting the execution of the contract.

(e) A city may exercise its option to not succeed to the rights, duties, and powers of the county under the contract if each of the following had occurred prior to January 1, 1991:

(1) The land being annexed was within one mile of the city's boundary when the contract was executed.

(2) The city had filed with the local agency formation commission a resolution protesting the execution of the contract.

(3) The local agency formation commission had held a hearing to consider the city's protest to the contract.

(4) The local agency formation commission had found that the contract would be inconsistent with the publicly desirable future use and control of the land.

(5) The local agency formation commission had approved the city's protest.

(f) It shall be conclusively presumed that no protest was filed by the city unless there is a record of the filing of the protest and the protest identifies the affected contract and the subject parcel. It shall be conclusively presumed that required notice was given before the execution of the contract.

(g) The option of a city to not succeed to a contract shall extend only to that part of the land that was within one mile of the city's boundary when the contract was executed.

(h) If the city exercises its option to not succeed to a contract, then the city shall record a certificate of contract termination with the county recorder at the same time as the executive officer of the local agency formation commission files the certificate of completion pursuant to Section 57203. The certificate of contract termination shall include a legal description of the land for which the city terminates the contract.

History.—Added by Stats. 1990, Ch. 841, in effect January 1, 1991. Stats. 1998, Ch. 690 (SB 1835), in effect January 1, 1999, designated the former first sentence of the section as subdivision (a) and substituted "This section shall apply only to land that" for "For property which" therein, created subdivision (f) with the balance of the former first sentence of the section after "1991" and the former second sentence; and added subdivisions (b), (c), (d), (e), (g) and (h). Stats. 2002, Ch. 188 (AB 137), in effect January 1, 2003, added the second and third sentences to subdivision (c).

Note.—Section 4 of Stats. 2002, Ch. 188 (AB 137) provided that notwithstanding subdivisions (d) and (e) of Section 51243.5 of the Government Code, a city may exercise its option not to succeed to the rights, duties, and powers of a county under a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1 of Title 5 of the Government Code), if the contract was entered into between January 1, 1968, and December 31, 1968, the land being annexed was within one mile of the city's boundary when the contract was executed, and the local agency formation commission made the determination pursuant to subdivision (b) of Section 56754 of the Government Code prior to January 1, 2002.

51243.6. Legislative findings. The Legislature finds and declares the following:

(a) The enforceability of contracts entered into pursuant to this article is necessary to permit the preferential taxation provided to the owners of land under contract, pursuant to Section 8 of Article XIII of the California Constitution.

(b) The option granted to a city pursuant to Section 51243.5 to elect not to succeed to a contract may be held only by the city.

(c) No contracting landowner has a reasonable expectation that a contract can be terminated immediately pursuant to this article without penalty.

History.—Added by Stats. 2002, Ch. 188 (AB 137), in effect January 1, 2003.

51244. Term of contract. Each contract shall be for an initial term of no less than 10 years. Each contract shall provide that on the anniversary date of the contract or such other annual date as specified by the contract a year shall be added automatically to the initial term unless notice of nonrenewal is given as provided in Section 51245.

History.—Stats. 1967, p. 3216, in effect November 8, 1967, provided that each contract shall be for an "initial term" of ten years and that "renewal options" would provide "a year" rather than an "additional 10-year period." Stats. 1968, p. 1243, in effect November 13, 1968, substantially revised the second paragraph. Stats. 1969, p. 2811, in effect November 10, 1969, added "no less than" before "10 years" and deleted the former second paragraph.

51244.5. Term of 10 years or more; automatic renewal. Notwithstanding the provisions of Section 51244, if the initial term of the contract is for 10 years or more the contract may provide that on the anniversary date of the contract or such other annual date as specified by the contract beginning with the anniversary date on which the contract will have an unexpired term of nine years, a year shall be added automatically to the initial term unless notice of nonrenewal is given as provided in Section 51245.

History.—Added by Stats. 1969, p. 2806, in effect November 10, 1969. Stats. 1978, Ch. 1120, in effect January 1, 1979, substituted "10" for "20".

51245. Notice of nonrenewal. If either the landowner or the city or county desires in any year not to renew the contract, that party shall serve written notice of nonrenewal of the contract upon the other party in advance of the annual renewal date of the contract. Unless such written notice is served by the landowner at least 90 days prior to the renewal date or by the city or county at least 60 days prior to the renewal date, the contract shall be considered renewed as provided in Section 51244 or Section 51244.5.

Upon receipt by the owner of a notice from the county or city of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The county or city may, at any time prior to the renewal date, withdraw the notice of nonrenewal. Upon request by the owner, the board or council may authorize the owner to serve a notice of nonrenewal on a portion of the land under a contract.

Within 30 days of the receipt of a notice of nonrenewal from a landowner, the service of a notice of nonrenewal upon a landowner, or the withdrawal of a notice of nonrenewal, the city or county shall deliver a copy of the notice or a notice of withdrawal of nonrenewal to the Director of Conservation.

No later than 20 days after a city or county receives a notice of nonrenewal from a landowner, serves a notice of nonrenewal upon a landowner, or withdraws a notice of nonrenewal, the clerk of the board or council, as the case may be, shall record with the county recorder a copy of the notice of nonrenewal or notice of withdrawal of nonrenewal.

History.—Stats. 1967, p. 3214, in effect November 8, 1967, deleted “for 10 years” following “considered renewed” in the first paragraph. Stats. 1969, p. 2806, in effect November 10, 1969, added “or Section 51244.5” in the first paragraph and added the second paragraph. Stats. 1989, Ch. 943, in effect January 1, 1990, added third paragraph. Stats. 1992, Ch. 273, in effect January 1, 1993, added the fourth paragraph.

51246. Termination of contract. (a) If the county or city or the landowner serves notice of intent in any year not to renew the contract, the existing contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract, as the case may be. Within 30 days of the expiration of the contract, the county or city shall deliver a notice of expiration to the Director of Conservation.

(b) No city or county shall enter into a new contract or shall renew an existing contract on or after February 28, 1977, with respect to timberland zoned as timberland production. The city or county shall serve notice of its intent not to renew the contract as provided in this section.

(c) In order to meet the minimum acreage requirement of an agricultural preserve pursuant to Section 51230, land formerly within the agricultural preserve which is zoned as timberland production pursuant to Chapter 6.7 (commencing with Section 51100) may be taken into account.

(d) Notwithstanding any other provision of law, commencing with the lien date for the 1977-78 fiscal year all timberland within an existing contract which has been nonrenewed as mandated by this section shall be valued according to Section 423.5 of the Revenue and Taxation Code, succeeding to and including the lien date for the 1981-82 fiscal year. Commencing with the

lien date for the 1982-83 fiscal year and on each lien date thereafter, such timberland shall be valued according to Section 434.5 of the Revenue and Taxation Code.

History.—Stats. 1969, p. 2812, in effect November 10, 1969, added “county or city or the” before “landowner” and deleted “his” before “intent”. Stats. 1976, Ch. 176, p. 316, in effect May 24, 1976, added the second and third paragraphs. Stats. 1977, Ch. 833, in effect September 17, 1977, designated the three existing paragraphs as subdivisions (a) (b) and (d) respectively and added subdivision (c). Stats. 1981, Ch. 845, in effect January 1, 1982, deleted “and succeeding until the end of the contract, such timberland shall be valued according to Section 426 of the Revenue and Taxation Code. Commencing with the lien date next succeeding the termination date of the contract,” after “1982-83 fiscal year” in the former second and third sentences of subdivision (d). Stats. 1982, Ch. 1489, in effect January 1, 1983, substituted “production” for “preserve” after “timberland” in both subdivision (b) and subdivision (c). Stats. 1989, Ch. 943, in effect January 1, 1990, added second sentence in subdivision (a).

51247. Information to city or county by landowner. The landowner shall furnish the city or county with such information as the city or county shall require in order to enable it to determine the eligibility of the land involved.

History.—Stats. 1969, p. 2812, in effect November 10, 1969, renumbered former Section 51249 as Section 51247 and deleted “and the payments which the landowner should receive under the contract” at the end of the first sentence.

51248. Recording with county recorder. No later than 20 days after a city or county enters into a contract with a landowner pursuant to this chapter, the clerk of the board or council, as the case may be, shall record with the county recorder a copy of the contract, which shall describe the land subject thereto, together with a reference to the map showing the location of the agricultural preserve in which the property lies. From and after the time of such recordation such contract shall impart such notice thereof to all persons as is afforded by the recording laws of this state.

History.—Stats. 1969, p. 2812, in effect November 10, 1969, renumbered former Section 51250 as Section 51248 and added “no later than 20 days after” before “a city or county”; “the clerk of the board or council, as the case may be,” before “shall record” and deleted that portion concerned with filing with, and approval by, the director of agriculture in the first sentence.

51248.5. Filing of fictitious contracts. Whenever any city or county is required to record any contract by this chapter, it may file a fictitious contract. Thereafter, any of the provisions of such fictitious contract may be included by reference in any contract required to be filed by this chapter. The provisions of Section 2952 of the Civil Code relating to the filing, indexing, and force and effect of fictitious mortgages shall be applicable to such fictitious contracts.

History.—Added by Stats. 1978, Ch. 1120, in effect January 1, 1979.

51249. Filing sample copy of contract with Director of Conservation. Within 30 days after a form of contract is first used, the clerk of the board or council shall file with the Director of Conservation a sample copy of each form of contract and any land use restrictions applicable thereto.

History.—Added by Stats. 1969, p. 2812, in effect November 10, 1969. Stats. 1971, p. 1811, in effect March 4, 1972, changed the requirement for filing from “approval” of the form of contract to “use” of the form of contract. Stats. 1974, Ch. 544, p. 1252, in effect January 1, 1975, substituted “Director of Food and Agriculture” for “Director of Agriculture”. Stats. 1984, Ch. 851, in effect January 1, 1985, substituted “Conservation” for “Food and Agriculture” after “Director of”.

51250. Breaches of contract. (a) The purpose of this section is to identify certain structures that constitute material breaches of contract under this chapter and to provide an alternate remedy to a contract cancellation petition by the landowner. Accordingly, this remedy is in addition to any other

available remedies for breach of contract. Except as expressly provided in this section, this section is not intended to change the existing land use decisionmaking and enforcement authority of cities and counties including the authority conferred upon them by this chapter to administer agricultural preserves and contracts.

(b) For purposes of this section, a breach is material if, on a parcel under contract, both of the following conditions are met:

(1) A commercial, industrial, or residential building is constructed that is not allowed by this chapter or the contract, local uniform rules or ordinances consistent with the provisions of this chapter, and that is not related to an agricultural use or compatible use.

(2) The total area of all of the building or buildings likely causing the breach exceeds 2,500 square feet for either of the following:

(A) All property subject to any contract or all contiguous property subject to a contract or contracts owned by the same landowner or landowners on January 1, 2004.

(B) All property subject to a contract entered into after January 1, 2004, covering property not subject to a contract on January 1, 2004.

For purposes of this subdivision any additional parcels not specified in the legal description that accompanied the contract, as it existed prior to January 1, 2003, including any parcel created or recognized within an existing contract by subdivision, deed, partition, or, pursuant to Section 66499.35, by certificate of compliance, shall not increase the limitation of this subdivision.

(c) The department shall notify the city or county if the department discovers a possible breach.

(d) The city or county shall, upon notification by the department or upon discovery by the city or county of a possible material breach, determine if there is a valid contract and if it is likely that the breach is material. In its investigation, the city or county shall endeavor to contact the landowner or his or her representative to learn the landowner's explanation of the facts and circumstances related to the possible material breach.

(e) Within 10 days of determining that it is likely that a material breach exists, the city or county shall notify the landowner and the department by certified mail, return receipt requested. This notice shall include the reasons for the determination and a copy of the contract.

(f) Within 60 days of receiving the notice, the landowner or his or her representative may notify the city or the county that the landowner intends to eliminate the conditions that resulted in the material breach within 60 days. If the landowner eliminates the conditions that resulted in the material breach within 60 days, the city or county shall take no further action under this section with respect to the building at issue. If the landowner notifies the city or county of the intention to eliminate the conditions but fails to do so, the city or county shall proceed with the hearing required in subdivision (g).

(g) The city or county shall schedule a hearing no more than 120 days after the notice is provided to the landowner as required in subdivision (e). The city

or county shall give notice of the public hearing by certified mail, return receipt requested to the landowner and the department at least 30 days prior to the hearing. The city or county shall give notice of the public hearing by first-class mail to every owner of land under contract, any portion of which is situated within one mile of the exterior boundary of the contracted parcel on which the likely material breach exists. The city or county shall also give published notice pursuant to Section 6061. The notice shall include the date, time, and place of the public hearing. Not less than five days before the hearing, the department may request that the city or county provide the department, at the department's expense, a recorded transcript of the hearing not more than 30 days after the hearing.

(h) At the public hearing, the city or county shall consider any oral or written testimony and then determine if a material breach exists.

(i) If the city or county determines that a material breach exists, the city or county shall do one of the following:

(1) Order the landowner to eliminate the conditions that resulted in the material breach within 60 days.

(2) Assess the monetary penalty pursuant to subdivision (j) and terminate the contract on that portion of the contracted parcel that has been made incompatible by the material breach.

If the landowner disagrees with the determination, he or she may pursue any other legal remedy that is available.

(j) The monetary penalty shall be 25 percent of the unrestricted fair market value of the land rendered incompatible by the breach, plus 25 percent of the value of the incompatible building and any related improvements on the contracted land. The basis for the valuation of the penalty shall be an independent appraisal of the current unrestricted fair market value of the property that is subject to the contract and affected by the incompatible use or uses, and a valuation of any buildings and any related improvements within the area affected by the incompatible use or uses. If the city or county determines that equity would permit a lesser penalty, the city or county, the landowner, and the department may negotiate a reduction in the penalty based on the factors specified in subdivision (k), but a reduction in the penalty may not exceed one-half of the penalty. If negotiations are to be held, the city or county shall provide the department 15 days' notice before the first negotiation. If the department chooses not to be a negotiator or fails to send a negotiator, the city or county and the landowner may negotiate the penalty.

(k) In determining the amount of a lesser penalty, the negotiators shall consider:

(1) The nature, circumstances, extent, and gravity of the material breach.

(2) Whether the landowner's actions were willful, knowing, or negligent with respect to the material breach.

(3) The landowner's culpability in contributing to the material breach and whether the actions of prior landowners subject to the contract contributed to the material breach.

(4) Whether the actions of the city or county contributed to the material breach.

(5) Whether the landowner notified the city or county that the landowner would eliminate the conditions that resulted in the material breach within 30 days, but failed to do so.

(6) The willingness of the landowner to rapidly resolve the issue of the material breach.

(7) Any other mitigating or aggravating factors that justice may require.

(l) If the landowner is ordered to eliminate the conditions that resulted in the material breach pursuant to paragraph (1) of subdivision (i) but the landowner fails to do so within the time specified by the city or county, the city or county may abate the material breach as a public nuisance pursuant to any applicable provisions of law.

(m) If the city or county terminates the contract pursuant to paragraph (2) of subdivision (i), the city or county shall record a notice of termination following the procedures of Section 51283.4.

(n) The assessment of a monetary penalty pursuant to subdivision (i) shall be secured by a lien payable to the county treasurer of the county within which the property is located, in the amount assessed pursuant to subdivision (j) or (k). Once properly recorded and indexed, the lien shall have the force, effect, and priority of a judgment lien. The lien document shall provide both of the following:

(1) The name of the real property owner of record and shall contain either the legal description or the assessor's parcel number of the real property to which the lien attaches.

(2) A direct telephone number and address that interested parties may contact to determine the final amount of any applicable assessments and penalties owing on the lien pursuant to this section.

(o) If the lien is not paid within 60 days of recording, simple interest shall accrue on the unpaid penalty at the rate of 10 percent per year, and shall continue to accrue until the penalty is paid, prior to all other claims except those with superior status under federal or state law.

(p) Upon payment of the lien, the city or county shall record a release of lien and a certificate of contract termination by breach with the county recorder for the land rendered incompatible by the breach.

(q) The city or county may deduct from any funds received pursuant to this chapter the amount of the actual costs of administering this section and shall transmit the balance of the funds by the county treasurer to the Controller for deposit in the Soil Conservation Fund.

(r) (1) The department may carry out the responsibilities of a city or county under this section if either of the following occurs:

(A) The city or county fails to determine whether there is a material breach within 210 days of the discovery of the breach.

(B) The city or county fails to complete the requirements of this section within 180 days of the determination that a material breach exists.

(2) The city or county may request in writing to the department, the department's approval for an extension of time for the city or county to act and the reasons for the extension. Approval may not be unreasonably withheld by the department.

(3) The department shall notify the city or county 30 days prior to its exercise of any responsibility under this subdivision.

(4) This section shall not be construed to limit the authority of the Secretary of the Resources Agency under Section 16146 or 16147.

(s) (1) This section does not apply to any of the following:

(A) A building constructed prior to January 1, 2004, or permitted by a city or county prior to January 1, 2004.

(B) A building that was not a material breach at the time of construction but became a material breach because of a change in law or ordinance.

(C) A building owned by the state.

(2) Subject to paragraphs (4) and (5), this section does not apply when a board or council cancels a contract pursuant to Article 5 (commencing with Section 51280) or terminates a contract pursuant to Section 51243.5 or when a public agency, as defined by subdivision (a) of Section 51291, acquires land subject to contract by, or in lieu of, eminent domain pursuant to Article 6 (commencing with Section 51290) unless either of the following occurs:

(A) The action canceling or terminating the contract is rescinded.

(B) A court determines that the cancellation or termination was not properly executed pursuant to this chapter, or that the land continues to be subject to the contract.

(3) On the motion of any party with standing to bring an action for breach, any court hearing an action challenging the termination of a contract entered into under this chapter shall consolidate any action for breach, including the remedies for material breach available pursuant to this section.

(4) Paragraph (2) shall not be applicable for a cancellation or termination occurring after January 1, 2004, unless the affected landowner provides to the administering board or council and to the department, within 30 days after the cancellation or termination, a notarized statement, in a form acceptable to the department, signed under penalty of perjury and filed with the county recorder, acknowledging that the breach provisions of this section may apply if any of the following conditions are met:

(A) The action by the local government is rescinded.

(B) A court permanently enjoins, voids, or rescinds the cancellation or termination.

(C) For any other reason, the land continues to be subject to the contract.

(5) Paragraph (2) does not apply for a cancellation or termination occurring before January 1, 2004, unless the landowner provides the statement required in paragraph (4) prior to the approval of a building permit necessary for the construction of a commercial, industrial, or residential building.

(t) It is the intent of the Legislature to encourage cities and counties, in consultation with contracting landowners and the department, to review existing Williamson Act enforcement programs and consider any additions or improvements that would make local enforcement more effective, equitable, or widely acceptable to the affected landowners. Cities and counties are also encouraged to include enforcement provisions within the terms of the contracts, with the consent of contracting landowners.

History.—Added by Stats. 2003, Ch. 694 (AB 1492), in effect January 1, 2004.

Note.—Section 4 of Stats. 2003, Ch. 694 (AB 1492) provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

51251. Authority of state to bring court enforcement action. The county, city, or landowner may bring any action in court necessary to enforce any contract including but not limited to, an action to enforce the contract by specific performance or injunction. An owner of land may bring any action in court to enforce a contract on land whose exterior boundary is within one mile of his land. An owner of land under contract may bring any action in court to enforce a contract on land located within the same county or city.

History.—Stats. 1969, p. 2813, in effect November 10, 1969, renumbered former Section 51252 as Section 51252; substituted “county or city” for “state”; deleted “an action for” before “specific performance”; and deleted “relief” after “injunction” in the first sentence. Stats. 1971, p. 3850, in effect March 4, 1972, substituted “, city, or landowner” for “or city” in the first sentence. Stats. 1978, Ch. 1120, in effect January 1, 1979, added the second sentence.

51252. Assessment as open space land. Open-space land under a contract entered into pursuant to this chapter shall be enforceably restricted within the meaning and for the purposes of Section 8 of Article XIII of the State Constitution and shall be enforced and administered by the city or county in such a manner as to accomplish the purposes of that article and of this chapter.

History.—Added by Stats. 1969, p. 2813, in effect November 10, 1969. Stats. 1974, Ch. 311, p. 589, in effect January 1, 1975, substituted “Open-space land under a” for “Any”, substituted “enforceably restricted” for “an enforceable restriction”, and substituted “Section 8 of Article XIII” for “Article XXVIII”.

51253. Amendment of prior contracts to conform to amended chapter. Any contract or agreement entered into pursuant to this chapter prior to the 61st day following final adjournment of the 1969 Regular Session of the Legislature may be amended to conform with the provisions of this act as amended at that session upon the mutual agreement of all parties. Approval of these amendments to a contract by the Director of Conservation shall not be required.

History.—Added by Stats. 1969, p. 2813, in effect November 10, 1969. Stat. 1974, Ch. 544, p. 1252, in effect January 1, 1975, substituted “Director of Food and Agriculture” for “Director of Agriculture” in the second sentence. Stats. 1984, Ch. 851, in effect January 1, 1985, substituted “these amendments . . . Conservation” for “such an amendment to a contract by the Director of Food and Agriculture or the State Board of Agriculture” after “approval of” in the second sentence.

51254. Rescission and entry into new contract. Notwithstanding any other provision of this chapter, the parties may upon their mutual agreement rescind a contract in order simultaneously to enter into a new contract pursuant to this chapter, which new contract would enforceably restrict the same property for an initial term at least as long as the unexpired term of the

contract being so rescinded but not less than 10 years. Such action may be taken notwithstanding the prior serving of a notice of nonrenewal relative to the former contract.

History.—Added by Stats. 1977, Ch. 495 in effect January 1, 1978.

51255. Rescission and entry into easement agreement.

(a) Notwithstanding any other provision of this chapter, the parties may upon their mutual agreement rescind a contract in order simultaneously to enter into an open-space easement agreement pursuant to the Open-Space Easement Act of 1974, (Chapter 6.6 (commencing with Section 51070)), provided that the easement is consistent with the Williamson Act (this chapter) for the duration of the original Williamson Act contract. The easement would enforceably restrict the same property for an initial term of not less than 10 years and would not be subject to the provisions of Article 4 (commencing with Section 51090) of Chapter 6.6. This action may be taken notwithstanding the prior serving of a notice of nonrenewal, and the land subject to the contract shall be assessed pursuant to Section 423 of the Revenue and Taxation Code.

(b) This section shall not apply to any agreement entered into on or before August 12, 1998.

History.—Added by Stats. 1977, Ch. 495, in effect January 1, 1978. Stats. 1998, Ch. 690 (SB 1835), in effect January 1, 1999, added subdivision letter designation (a) to the first paragraph, substituted “(Chapter 6.6 (commencing with Section 51070)), provided that the easement is consistent with the Williamson Act (this chapter) for the duration of the original Williamson Act contract.” for “”, commencing with Section 51070” after “1974,” in the first sentence, created the second sentence with the balance of the former first sentence and substituted “The easement” for “which easement” before “would enforceably” and added “and would not be subject to the provisions of Article 4 (commencing with Section 51090) of Chapter 6.6” after “10 years” therein, and substituted “This action” for “Such action” in the former second sentence and added the balance of the sentence after “nonrenewal”; and added subdivision (b).

51256. Rescission and entry into new contract on uncontracted land. [Repealed by Stats. 1983, Ch. 880, in effect January 1, 1985.]

Section effective January 1, 1998.

51256. Rescission and entry into new contract on uncontracted land. Notwithstanding any other provision of this chapter, a city or county, upon petition by a landowner, may enter into an agreement with the landowner to rescind a contract in accordance with the contract cancellation provisions of Section 51282 in order to simultaneously place other land within that city, the county, or the county where the contract is rescinded under an agricultural conservation easement, consistent with the purposes and, except as provided in subdivision (b), the requirements of the Agricultural Land Stewardship Program pursuant to Division 10.2 (commencing with Section 10200) of the Public Resources Code, provided that the board or council makes all of the following findings:

(a) The proposed agricultural conservation easement is consistent with the criteria set forth in Section 10251 of the Public Resources Code.

(b) The proposed agricultural conservation easement is evaluated pursuant to the selection criteria in Section 10252 of the Public Resources Code, and particularly subdivisions (a), (c), (e), (f), and (h), and the board or

council makes a finding that the proposed easement will make a beneficial contribution to the conservation of agricultural land in its area.

(c) The land proposed to be placed under an agricultural conservation easement is of equal size or larger than the land subject to the contract to be rescinded, and is equally or more suitable for agricultural use than the land subject to the contract to be rescinded. In determining the suitability of the land for agricultural use, the city or county shall consider the soil quality and water availability of the land, adjacent land uses, and any agricultural support infrastructure.

(d) The value of the proposed agricultural conservation easement, as determined pursuant to Section 10260 of the Public Resources Code, is equal to or greater than 12.5 percent of the cancellation valuation of the land subject to the contract to be rescinded, pursuant to subdivision (a) of Section 51283. The easement value and the cancellation valuation shall be determined within 30 days before the approval of the city or county of an agreement pursuant to this section.

History.—Added by Stats. 1997, Ch. 495 (SB 1240), in effect January 1, 1998. Stats. 1999, Ch. 1018 (SB 985), in effect January 1, 2000, added “accordance with the contract cancellation provisions of Section 51282 in” between “in” and “order”; added “within that city, the county, or the county where the contract is rescinded” between “land” and “under”; and substituted “consistent with the purposes and, except as provided in subdivision (b), the requirements of the Agricultural Land Stewardship Program pursuant to Division 10.2 (commencing with Section 10200)” for “as defined in Section 10211” after “easement” in the first sentence of the first paragraph; deleted former subdivisions (a) and (b), relettered former subdivision (c) as (a) and added “of the Public Resources Code” after “Section 10251”; added subdivision (b); relettered former subdivision (d) and (e) as (c) and (d), respectively; and deleted former subdivision (f), which became Section 51256.1.

51256.1. Approval by Secretary of Resources. No agreement entered into pursuant to Section 51256 shall take effect until it is approved by the Secretary of Resources. The secretary may approve the agreement if he or she finds that the findings of the board or council, as required by Sections 51256 and 51282, are supported by substantial evidence, and that the proposed agricultural conservation easement is consistent with the eligibility criteria set forth in Section 10251 of the Public Resources Code and will make a beneficial contribution to the conservation of agricultural land in its area. The secretary shall not approve the agreement if an agricultural conservation easement has been purchased with funds from the Agricultural Land Stewardship Program Fund, established pursuant to Section 10230 of the Public Resources Code, on the same land proposed to be placed under an agricultural conservation easement pursuant to this section.

History.—Added by Stats. 1999, Ch. 1018 (SB 985), in effect January 1, 2000.

51256.2. Chino Basin. (a) One or more cities or counties may adopt a plan for implementing the provisions of Section 51256 with respect to multiple transactions within one or more specific areas, and submit the plan to the director for his or her approval. The plan may be approved only upon a determination by the director that it is consistent with the provisions of Section 51256. Thereafter individual transactions shall be approved if they are consistent with the approved plan.

(b) Notwithstanding Section 51256, this section shall apply only to lands under contract located in the Counties of San Bernardino and Riverside,

within the area bounded by Interstate 10 on the north, State Route 71 on the west, State Route 91 on the south, and a line two miles east of Interstate 15 on the east, and to easements within that area or within 10 miles of its exterior boundaries.

(c) The Legislature finds and declares that, because of the unique factors applicable only to the Chino Basin, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Those unique circumstances are that the Chino agricultural preserve is undergoing transition from agricultural to nonagricultural uses and the affected areas comprise more than a single jurisdiction. Therefore, a multijurisdictional approach is necessary.

History.—Added by Stats. 1999, Ch. 994 (SB 831), in effect January 1, 2000.

51257. Boundary adjustments. [Repealed by Stats. 1985, Ch. 1405, in effect January 1, 1989.]

51257. Lot line adjustments. (a) To facilitate a lot line adjustment, pursuant to subdivision (d) of Section 66412, and notwithstanding any other provision of this chapter, the parties may mutually agree to rescind the contract or contracts and simultaneously enter into a new contract or contracts pursuant to this chapter, provided that the board or council finds all of the following:

(1) The new contract or contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years.

(2) There is no net decrease in the amount of the acreage restricted. In cases where two parcels involved in a lot line adjustment are both subject to contracts rescinded pursuant to this section, this finding will be satisfied if the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.

(3) At least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.

(4) After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use, as defined in Section 51222.

(5) The lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts.

(6) The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.

(7) The lot line adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the general plan.

(b) Nothing in this section shall limit the authority of the board or council to enact additional conditions or restrictions on lot line adjustments.

(c) Only one new contract may be entered into pursuant to this section with respect to a given parcel, prior to January 1, 2004.

(d) In the year 2008, the department's Williamson Act Status Report, prepared pursuant to Section 51207, shall include a review of the performance of this section.

(e) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2009, deletes or extends that date.

History.—Added by Stats. 1997, Ch. 495 (SB 1240), in effect January 1, 1998. Stats. 1998, Ch. 690 (SB 1835), in effect January 1, 1999, added “or contracts” after “contract” twice and substituted “finds all of the following” for “makes all of the following findings” in the first sentence of subdivision (a), added “or contracts” after “contract” twice, added “for” after “term”, added “rescinded” before the second “contract” and substituted “, but for not” for “being rescinded, but in no event for” before “less than” in paragraph (1), added “or contracts” after “contract” twice in paragraph (3), substituted “defined” for “that term is used” after “use, as” in paragraph (4), and substituted “other agricultural lands subject to a contract or contracts” for “of other contracted lands” after “parcel or” in paragraph (5) therein; added “of” after “authority” and deleted “may otherwise have” after “council” in subdivision (b); and substituted “respect” for “regard” after “with” and substituted “2003” for “2000” after “January 1,” in subdivision (c). Stats. 1999, Ch. 1018 (SB 985), in effect January 1, 2000, added paragraph (7) to subdivision (a). Stats. 2002, Ch. 616 (SB 1864), in effect January 1, 2003, substituted “2004” for “2003” after “January 1,” in the first sentence of subdivision (c) and in both places in the first sentence of subdivision (e). Stats. 2003, Ch. 694 (AB 1492), in effect January 1, 2004, substituted “2008” for “2002” after “In the year” in the first sentence of subdivision (d) and substituted “2009” for “2004” after “January 1,” twice in the first sentence of subdivision (e).

Note.—Section 3 of Stats. 2003, Ch. 694 (AB 1492) provided that in enacting these amendments, the Legislature finds and declares that the extension of the sunset provisions of Section 51257 of the Government Code shall not be construed as making any other change in the meaning or interpretation of Section 51257 of the Government Code.

Section 4 thereof provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Article 5. Cancellation

- § 51280. Purpose of cancellation provision.
- § 51280.1. Cancellation; alternative use.
- § 51281. Request by landowner.
- § 51281.1. Payment of application fee.
- § 51282. Cancellation as to all or part of land; conditions for approval.
- § 51282.1. Cancellation; alternative provisions. [Repealed.]
- § 51282.2. Exception; parcel of 300 acres or less. [Repealed.]
- § 51282.3. Cancellation; land used for agricultural laborer housing. [Repealed.]
- § 51282.3. Cancellation; land used for agricultural laborer housing.
- § 51282.5. Cancellation; land zoned as timberland production.
- § 51283. Cancellation fee; amount; waiver or extension of time. [Repealed.]
- § 51283. Cancellation fee; amount; waiver or extension of time.
- § 51283.1. Payment of deferred taxes. [Repealed.]
- § 51283.3. Action upon cancellation. [Repealed.]
- § 51283.4. Certificate of tentative cancellation fees.
- § 51283.5. Reports by Department of Conservation. [Repealed.]
- § 51284. Public hearing; notice and publication.
- § 51284.1. Cancellation notice.
- § 51285. Same: Protest by other owners within preserve.
- § 51286. Mandamus action or proceeding.
- § 51287. Fee to recover cost of services.

51280. Purpose of cancellation provision. It is hereby declared that the purpose of this article is to provide relief from the provisions of contracts entered into pursuant to this chapter under the circumstances and conditions provided herein.

History.—Stats. 1981, Ch. 1095, in effect January 1, 1982, substituted “under the circumstances and conditions provided herein” for “only when the continued dedication of land under such contracts to agricultural use is neither necessary nor desirable for the purposes of this chapter”.

Note.—Section 7 of Stats. 1981, Ch. 1095, provided that an application for cancellation filed prior to the effective date of this act shall be reviewed and decided upon pursuant to the provisions of law applicable prior to the effective date,

unless the applicant elects in writing to proceed under Section 51282 or 51282.1 of this act. Sec. 8 thereof provided that the Legislature finds and declares that the purpose of this act is not to weaken or strengthen the Williamson Act but simply to clarify and make the law workable in light of problems and ambiguities created by the California Supreme Court decision in the case of *Sierra Club v. City of Hayward*, 28 Cal.3d 840. Sec. 10 thereof provided that notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

Construction.—The unconstitutional and inconsistent window period cancellation provision temporarily permitting cancellation for a one-year period under former Section 51282.1 of the Government Code, as added by Stats. 1981, Ch. 1095, was severable from the rest of the Williamson Act. Thus, the surviving provisions of Stats. 1981, Ch. 1095 served to codify and explain the findings necessary for cancellation and were still complete and valid as to permanent cancellation rules. *Lewis v. City of Hayward*, 177 Cal.App.3d 103.

51280.1. Cancellation; alternative use. As used in this chapter, the finding of a board or council that “cancellation and alternative use will not result in discontinuous patterns of urban development” authorizes, but does not require, the board or council to cancel a contract if it finds that the alternative use will be rural in character and that the alternative use will result within the foreseeable future in a contiguous pattern of development within the relevant subregion. The board or council is not required to find that the alternative use will be immediately contiguous to like development. In rendering its finding, the board or council acts in its own discretion to evaluate the proposed alternative use according to existing and projected conditions within its local jurisdiction.

The provisions of this section shall apply only to those proceedings for the cancellation of contracts which were initiated pursuant to Section 51282.1, and, consistent with the provisions of Section 9 of Chapter 1095 of the Statutes of 1981, shall apply to the same extent as the provisions of Section 51282.1, notwithstanding their repeal.

History.—Added by Stats. 1983, Ch. 1296, in effect January 1, 1984.

Note.—Section 1 of Stats. 1983, Ch. 1296, provided that the Legislature finds and declares that possible misinterpretations of Stats. 1981, Ch. 1095, with regard to applications which have been approved by a county board of supervisors or city council and which are subject to litigation might wrongfully result in the denial of cancellations under that chapter. The Legislature therefore declares that the findings requirements of that chapter were and are satisfied if a local board or council has acted in accordance with Section 51280.1 of the Government Code, as added by this act.

51281. Request by landowner. A contract may not be canceled except pursuant to a request by the landowner, and as provided in this article.

History.—Stats. 1969, p. 2813, in effect November 10, 1969, added “not” after “contract may” and substituted “except pursuant to a request by the landowner, and” for “on the mutual agreement of all parties to the contract, and the state,” in the first sentence.

51281.1. Payment of application fee. The board or council may require the payment of a reasonable application fee to be made at the time a petition for cancellation is filed.

History.—Added by Stats. 1978, Ch. 1120, in effect January 1, 1979.

51282. Cancellation as to all or part of land; conditions for approval.
(a) The landowner may petition the board or council for cancellation of any contract as to all or any part of the subject land. The board or council may grant tentative approval for cancellation of a contract only if it makes one of the following findings:

- (1) That the cancellation is consistent with the purposes of this chapter; or
- (2) That cancellation is in the public interest.

(b) For purposes of paragraph (1) of subdivision (a) cancellation of a contract shall be consistent with the purposes of this chapter only if the board or council makes all of the following findings:

(1) That the cancellation is for land on which a notice of nonrenewal has been served pursuant to Section 51245.

(2) That cancellation is not likely to result in the removal of adjacent lands from agricultural use.

(3) That cancellation is for an alternative use which is consistent with the applicable provisions of the city or county general plan.

(4) That cancellation will not result in discontinuous patterns of urban development.

(5) That there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land.

As used in this subdivision “proximate, noncontracted land” means land not restricted by contract pursuant to this chapter, which is sufficiently close to land which is so restricted that it can serve as a practical alternative for the use which is proposed for the restricted land.

As used in this subdivision “suitable” for the proposed use means that the salient features of the proposed use can be served by land not restricted by contract pursuant to this chapter. Such nonrestricted land may be a single parcel or may be a combination of contiguous or discontinuous parcels.

(c) For purposes of paragraph (2) of subdivision (a) cancellation of a contract shall be in the public interest only if the council or board makes the following findings: (1) that other public concerns substantially outweigh the objectives of this chapter; and (2) that there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land.

As used in this subdivision “proximate, noncontracted land” means land not restricted by contract pursuant to this chapter, which is sufficiently close to land which is so restricted that it can serve as a practical alternative for the use which is proposed for the restricted land.

As used in this subdivision “suitable” for the proposed use means that the salient features of the proposed use can be served by land not restricted by contract pursuant to this chapter. Such nonrestricted land may be a single parcel or may be a combination of contiguous or discontinuous parcels.

(d) For purposes of subdivision (a), the uneconomic character of an existing agricultural use shall not by itself be sufficient reason for cancellation of the contract. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable agricultural use to which the land may be put.

(e) The landowner's petition shall be accompanied by a proposal for a specified alternative use of the land. The proposal for the alternative use shall list those governmental agencies known by the landowner to have permit authority related to the proposed alternative use, and the provisions and requirements of Section 51283.4 shall be fully applicable thereto. The level of specificity required in a proposal for a specified alternate use shall be determined by the board or council as that necessary to permit them to make the findings required.

(f) In approving a cancellation pursuant to this section, the board or council shall not be required to make any findings other than or in addition to those expressly set forth in this section, and, where applicable, in Section 21081 of the Public Resources Code.

History.—Added by Stats. 1969, p. 2813, in effect November 10, 1969. Stats. 1978, Ch. 1120, in effect January 1, 1979, added the fourth paragraph. Stats. 1981, Ch. 1095, in effect January 1, 1982, added the subdivision letters; substituted “grant tentative approval for cancellation of a contract only if it makes one of the following findings” for “approve the cancellation of a contract only if they find” in the second sentence of subdivision (a), and substituted “is consistent” for “is not inconsistent” and “; or” for “; and” in subdivision (a)(1); deleted the former second paragraph; added subdivisions (b), (c), and (f); lettered the former third paragraph as subdivision (d), added “For purposes of subdivision (a),” at the beginning of the first sentence thereof, and substituted “not by itself” for “likewise not” in the first sentence thereof; and lettered the former fourth paragraph as subdivision (e), substituted “shall be accompanied by” for “may be accompanied with” in the first sentence thereof, added the balance of the second sentence after “alternative use,” and added the third sentence.

Construction.—A county's cancellation of a Williamson Act contract requires only that the county make the necessary findings under this Section and that the findings are supported by substantial evidence. Under the existing Section, a county is not required to find that an emergency situation existed or that the proposed project for the land was contiguous to existing development. Friends of East Willits Valley v. Mendocino County, 101 Cal.App.4th 191.

51282.1. Cancellation; alternative provisions. [Repealed by Stats. 1981, Ch. 1095, in effect January 1, 1983.]

51282.2. Exception; parcel of 300 acres or less. [Repealed by Stats. 2003, Ch. 296 (SB 66), in effect January 1, 2004.]

51282.3. Cancellation; land used for agricultural laborer housing. [Repealed by Stats. 1987, Ch. 56, in effect January 1, 1988.]

51282.3. Cancellation; land used for agricultural laborer housing.
(a) The landowner may petition the board or council, pursuant to Section 51282, for cancellation of any contract or of any portion of a contract if the board or council has determined that agricultural laborer housing is not a compatible use on the contracted lands. The petition, and any subsequent cancellation based thereon, shall (1) particularly describe the acreage to be subject to cancellation; (2) stipulate that the purpose of the cancellation is to allow the land to be used exclusively for agricultural laborer housing facilities; (3) demonstrate that the contracted lands, or portion thereof, for which cancellation is being sought are reasonably necessary for the development and siting of agricultural laborer housing; and (4) certify that the contracted lands, or portion thereof, for which cancellation is being sought, shall not be converted to any other alternative use within the first 10 years immediately following the cancellation.

The petition shall be deemed to be a petition for cancellation for a specified alternative use of the land. The petition shall be acted upon by the board or council in the manner prescribed in Section 51283.4. However, the provisions

of Section 51283 pertaining to the payment of cancellation fees shall not be imposed except as provided in subdivision (b).

(b) If the owner of real property is issued a certificate of cancellation of contract based on subdivision (a), there shall be executed and recorded concurrently with the recordation of the certificate of cancellation of contract, a lien in favor of the county, city or city and county in the amount of the fees which would otherwise have been imposed pursuant to Section 51283. Those amounts shall bear interest at the rate of 10 percent per annum. The lien shall particularly describe the real property subject to the lien, shall be recorded in the county where the real property subject to the lien is located, and shall be indexed by the recorder in the grantor index to the name of the owner of the real property and in the grantee index in the name of the county or city or city and county. From the date of recordation, the lien shall have the force, effect and priority of a judgment lien. The board or council shall execute and record a release of lien if, after a period of 10 years from the date of the recordation of the certificate of cancellation of contract, the real property subject to the lien has not been converted to a use other than agricultural laborer housing. In the event the real property subject to the lien has been converted to a use other than agricultural laborer housing, or the construction of agricultural laborer housing has not commenced within a period of one year from the date of recordation of the certificate of cancellation of contract, then the lien shall only be released upon payment of the fees and interest for which the lien has been imposed. Where construction commences after the one-year period, the amount of the interest shall only be for that period from one year following the date of the recordation of the certificate of cancellation of contract until the actual commencement of construction.

History.—Added by Stats. 1980, Ch. 1219 (SB 985) in effect January 1, 1981. Stats. 1999, Ch. 1018 (SB 985), in effect January 1, 2000, substituted “the” for “such” before “petition” in the first sentence, substituted a period for “; provided,” after “51283.4” in the second sentence, and substituted “However” for “however,” at the beginning of the new third sentence, deleted “and 51283.1” after “51283,” and deleted “deferred taxes and” after “payment of” therein in the second paragraph of subdivision (a); and deleted “and taxes” after “fees” and deleted “and 51283.1” after “51283” in the first sentence, substituted “Those” for “Such” before “amounts” in the second sentence, deleted “taxes” after “fees” in the sixth sentence, and added a comma after “period” in the seventh sentence of subdivision (b).

51282.5. Cancellation; land zoned as timberland production. The owner of any land which has been zoned as a timberland production pursuant to Section 51112 or 51113, and that zoning has been recorded as provided in Section 51117, may petition the board or council for cancellation of any contract as to all or part of the land. Upon petition, the board or council shall approve the cancellation of the contract.

The provisions of Section 51283 shall not apply to any cancellation under this section, and no cancellation fee shall be imposed.

History.—Added by Stats. 1976, Ch. 176, in effect May 24, 1976. Stats. 1982, Ch. 1489, in effect January 1, 1983, substituted “production” for “preserve” after “timberland,” “that” for “such” before “zoning” and “the” for “such” after “part of” in the first sentence, and deleted “such” after “Upon” and substituted “the” for “such” after “cancellation of” in the second sentence of the first paragraph.

51283. Cancellation fee; amount; waiver or extension of time.
[Repealed by Stats. 1991, Ch. 216, in effect January 1, 1993.]

51283. Cancellation fee; amount; waiver or extension of time.

(a) Prior to any action by the board or council giving tentative approval to the cancellation of any contract, the county assessor of the county in which the land is located shall determine the current fair market value of the land as though it were free of the contractual restriction. The assessor shall certify to the board or council the cancellation valuation of the land for the purpose of determining the cancellation fee. At the same time, the assessor shall send a notice to the assessee indicating the current fair market value of the land as though it were free of the contractual restriction. The notice shall advise the assessee of the right to appeal the fair market value of the land under Section 1605 of the Revenue and Taxation Code and that the appeal shall be filed within 60 days of the date of mailing printed on the notice or the postmark date therefor, whichever is later.

(b) Prior to giving tentative approval to the cancellation of any contract, the board or council shall determine and certify to the county auditor the amount of the cancellation fee that the landowner shall pay the county treasurer upon cancellation. That fee shall be an amount equal to 12½ percent of the cancellation valuation of the property.

(c) If it finds that it is in the public interest to do so, the board or council may waive any payment or any portion of a payment by the landowner, or may extend the time for making the payment or a portion of the payment contingent upon the future use made of the land and its economic return to the landowner for a period of time not to exceed the unexpired period of the contract, had it not been canceled, if all of the following occur:

(1) The cancellation is caused by an involuntary transfer or change in the use which may be made of the land and the land is not immediately suitable, nor will be immediately used, for a purpose which produces a greater economic return to the owner.

(2) The board or council has determined that it is in the best interests of the program to conserve agricultural land use that the payment be either deferred or is not required.

(3) The waiver or extension of time is approved by the Secretary of the Resources Agency. The secretary shall approve a waiver or extension of time if the secretary finds that the granting of the waiver or extension of time by the board or council is consistent with the policies of this chapter and that the board or council complied with this article. In evaluating a request for a waiver or extension of time, the secretary shall review the findings of the board or council, the evidence in the record of the board or council, and any other evidence the secretary may receive concerning the cancellation, waiver, or extension of time.

(d) The first nine hundred eighty-five thousand dollars (\$985,000) of revenue paid to the Controller pursuant to subdivision (e) in the 1992-93 fiscal year, and any other amount as approved in the final Budget Act for each fiscal year thereafter, shall be deposited in the Soil Conservation Fund, which

is continued in existence. The money in the fund is available, when appropriated by the Legislature, for the support of both of the following:

(1) The total cost of the farmlands mapping and monitoring program of the Department of Conservation pursuant to Section 65570.

(2) The soil conservation program identified in Section 614 of the Public Resources Code.

(e) When cancellation fees required by this section are collected, they shall be transmitted by the county treasurer to the Controller and deposited in the General Fund, except as provided in subdivision (d). The funds collected by the county treasurer with respect to each cancellation of a contract shall be transmitted to the Controller within 30 days of the execution of a certificate of cancellation of contract by the board or council, as specified in subdivision (b) of Section 51283.4.

(f) It is the intent of the Legislature that fees paid to cancel a contract do not constitute taxes but are payments that, when made, provide a private benefit that tends to increase the value of the property.

History.—Added by Stats. 1987, Ch. 1308, in effect January 1, 1988, operative July 1, 1993. Stats. 1991, Ch. 216, in effect January 1, 1992, added “is” after “deferred or” in paragraph (2) of subdivision (c); substituted “board or council” for “local agency” after “by the”, “that the”, and “of the”, in paragraph (3) of subdivision (c); substituted “nine” for “eight” after “first”, substituted “eighty-five” for “seventy” after “hundred”, substituted “(\$985,000)” for “(\$870,000)” after “dollars”, substituted “1992–93” for “1993–94” after “(e) in the”, added “any other . . . Act for” after “year, and”, substituted “continued in existence” for “hereby created” after “which is”, in the first sentence of subdivision (d); substituted “The money in” for “Moneys from” before “the fund”, substituted “is” for “are” after “the fund”, substituted “for the support . . . the following:” for “to support” after “Legislature”, in the second sentence of subdivision (d); created paragraph (1) of the second sentence of subdivision (d) from the remainder of the second sentence in subdivision (d); deleted “When additional revenues are available for deposit in the fund up to two hundred fifty thousand dollars (\$250,000) shall be available for appropriation by the Legislature for support of” from the former third sentence of subdivision (d), and created paragraph (2) of the second sentence of subdivision (d) from the remainder of the former third sentence of subdivision (d); substituted “as provided in subdivision (d).” for “that up to eight hundred seventy thousand dollars (\$870,000) per year shall be deposited in the Soil Conservation Fund.” after “Fund, except” in the first sentence, and deleted “board’s or council’s” after “days of the”, and added “by the board or council” after “contract”, in the second sentence of subdivision (e). Stats. 1999, Ch. 1018 (SB 985), in effect January 1, 2000, deleted “as deferred taxes” after “treasurer” in the first sentence of subdivision (b); substituted “65570” for “66570” after “Section” in the first sentence of paragraph (1) of subdivision (d); substituted “cancellation fees” for “deferred taxes” in the first sentence of subdivision (e); and deleted former subdivision (f), which provided for the 1993 operative date, and added subdivision (f). Stats. 2003, Ch. 471 (SB 1062), in effect January 1, 2004, added the third and fourth sentences to the first paragraph of subdivision (a), and substituted “that” for “which” after “the cancellation fee” in the first sentence of subdivision (b).

Construction.—Although the State Board of Equalization has the statutory authority to compel an assessor to determine a cancellation value in accordance with law, such authority does not confer the exclusive right to bring an action for this purpose. The State Department of Conservation is empowered by statute to enforce the provisions of the Williamson Act and thus, it also has standing to bring an action to challenge the assessor’s cancellation valuation required under this section. *People ex rel. Dept. of Conservation v. Triplett*, 48 Cal.App.4th 233.

Note.—Section 3 of Stats. 1983, Ch. 864, provided no payment by state to local governments because of this act; however, a local agency or school district may pursue other remedies to obtain reimbursement.

Construction.—In amending subdivision (d) (Stats. 1971, p. 4890, First Ex. Sess.), the Legislature intended that taxes deferred under both a contract between a city or county and a landowner and an agreement between such parties were covered by the subdivision. It did not intend to except agreements between a city or county and a landowner entered into prior to 1971 from the application thereof. *Orange County v. Cory*, 97 Cal.App.3d 760.

51283.1. Payment of deferred taxes. [Repealed by Stats. 1986, Ch. 607, in effect January 1, 1987.]

51283.3. Action upon cancellation. [Repealed by Stats. 1988, Ch. 579, in effect January 1, 1989.]

51283.4. Certificate of tentative cancellation fees. (a) Upon tentative approval of a petition accompanied by a proposal for a specified alternative use of the land, the clerk of the board or council shall record in the

office of the county recorder of the county in which is located the land as to which the contract is applicable a certificate of tentative cancellation, which shall set forth the name of the landowner requesting the cancellation, the fact that a certificate of cancellation of contract will be issued and recorded at such time as specified conditions and contingencies are satisfied, a description of the conditions and contingencies which must be satisfied, and a legal description of the property. Conditions to be satisfied shall include payment in full of the amount of the fee computed under the provisions of Sections 51283 and 51283.1, together with a statement that unless the fee is paid, or a certificate of cancellation of contract is issued within one year from the date of the recording of the certificate of tentative cancellation, such fee

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GOVERNMENT CODE PROVISIONS

shall be recomputed as of the date of notice described in subdivision (b). Any provisions related to the waiver of such fee or portion thereof shall be treated in the manner provided for in the certificate of tentative cancellation. Contingencies to be satisfied shall include a requirement that the landowner obtain all permits necessary to commence the project. The board or council may, at the request of the landowner, amend a tentatively approved specified alternative use if it finds that such amendment is consistent with the findings made pursuant to subdivision (f) of Section 51282.1 or subdivision (a) of Section 51282, whichever is applicable.

(b) The landowner shall notify the board or council when he has satisfied the conditions and contingencies enumerated in the certificate of tentative cancellation. Within 30 days of receipt of such notice, and upon a determination that the conditions and contingencies have been satisfied, the board or council shall execute a certificate of cancellation of contract and cause the same to be recorded.

(c) If the landowner has been unable to satisfy the conditions and contingencies enumerated in the certificate of tentative cancellation, the landowner shall notify the board or council of the particular conditions or contingencies he is unable to satisfy. Within 30 days of receipt of such notice, and upon a determination that the landowner is unable to satisfy the conditions and contingencies listed, the board or council shall execute a certificate of withdrawal of tentative approval of a cancellation of contract and cause the same to be recorded. However, the landowner shall not be entitled to the refund of any cancellation fee paid.

History.—Added by Stats. 1978, Ch. 1120, in effect January 1, 1979. Stats. 1981, Ch. 1095, in effect January 1, 1982, added “the fee is paid, or” after “unless” in the second sentence of subdivision (a), substituted “necessary to commence the project” for “required by any governmental agency relative to the proposed alternative use of the land” after “permits” in the fourth sentence thereof, and added the fifth sentence; and added the third sentence to subdivision (c).

51283.5. Reports by Department of Conservation. [Repealed by Stats. 1989, Ch. 943, in effect January 1, 1990.]

51284. Public hearing; notice and publication. No contract may be canceled until after the city or county has given notice of, and has held, a public hearing on the matter. Notice of the hearing shall be published pursuant to Section 6061 and shall be mailed to every owner of land under contract, any portion of which is situated within one mile of the exterior boundary of the land upon which the contract is proposed to be canceled. In addition, at least 10 working days prior to the hearing, a notice of the hearing and a copy of the landowner’s petition shall be mailed to the Director of Conservation. Within 30 days of the tentative cancellation of the contract, the city or county shall publish a notice of its decision, including the date, time, and place of the public hearing, a general explanation of the decision, the findings made pursuant to Section 51282, and a general description, in text or by diagram, of the land under contract, as a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the city or county. In addition, within 30 days of the tentative cancellation of the contract, the city or county shall deliver a copy of the published notice of the

decision, as described above, to the Director of Conservation. The publication shall be for informational purposes only, and shall create no right, standing, or duty that would otherwise not exist with regard to the cancellation proceedings.

History.—Stats. 1970, p. 826, in effect November 23, 1970, expanded the notice requirement to land which is situated within one mile of the exterior boundary of land upon which the contract is proposed to be canceled. Stats. 1983, Ch. 864, in effect September 16, 1983, substituted “the Director of Conservation” for “each” after “mailed to” in the second sentence. Stats. 1985, Ch. 106, effective January 1, 1986, deleted “of the Government Code” after “6061” and deleted “and” after “contract,” in the second sentence. Stats. 1989, Ch. 943, in effect January 1, 1990, deleted “within the same agricultural preserve and” after “situated” in the second sentence and added the third, fourth, and fifth sentences. Stats. 1991, Ch. 125, in effect January 1, 1992, deleted “the Director of Conservation and” after “mailed to” in the second sentence, added the third sentence, added “tentative” after “days of the” in the fourth sentence, added the fifth sentence, and deleted the former seventh sentence which provided, “Within 30 days of the cancellation of the contract the city or county shall deliver a notice of cancellation to the Director of Conservation.” Stats. 1993, Ch. 89, in effect January 1, 1994, added “at least 10 working days prior to the hearing, a” after “In addition”, and added “hearing and a copy of the” after “notice of the” in the third sentence.

Note.—Section 3 of Stats. 1983, Ch. 864, provided no payment by state to local governments because of this act; however, a local agency or school district may pursue other remedies to obtain reimbursement.

51284.1. Cancellation notice. (a) When a landowner petitions a board or council for the tentative cancellation of a contract and when the board or council accepts the application as complete pursuant to Section 65943, the board or council shall immediately mail a notice to the Director of Conservation. The notice shall include all of the following:

- (1) A copy of the petition.
- (2) A copy of the contract.
- (3) A general description, in text or by diagram, of the land that is the subject of the proposed cancellation.
- (4) The deadline for submitting comments regarding the proposed cancellation. That deadline shall be consistent with the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7), but in no case less than 30 days prior to the scheduled action by the board or council.

(b) The Director of Conservation shall review the proposed cancellation and submit comments to the board or council by the deadline specified in paragraph (4) of subdivision (a). Any comments submitted shall advise the board or council on the findings required by Section 51282 with respect to the proposed cancellation.

(c) Prior to acting on the proposed cancellation, the board or council shall consider the comments by the Director of Conservation, if submitted.

History.—Added by Stats. 2000, Ch. 889 (AB 1944), in effect January 1, 2001.

51285. Same: Protest by other owners within preserve. The owner of any property located in the county or city in which the agricultural preserve is situated may protest such cancellation to the city or county conducting the hearing.

History.—Stats. 1969, p. 2813, in effect November 10, 1969, revised this section.

51286. Mandamus action or proceeding. (a) Any action or proceeding which, on the grounds of alleged noncompliance with the requirements of this chapter, seeks to attack, review, set aside, void, or annul a decision of a board of supervisors or a city council to cancel a contract shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure.

(b) The action or proceeding shall be commenced within 180 days from the date of the council or board order acting on a petition for cancellation filed under this chapter.

History.—Added by Stats. 1981, Ch. 1095, in effect January 1, 1982. Stats. 1985, Ch. 106, effective January 1, 1986, added a comma after “void”, and deleted “the provisions of” after “pursuant to” in the first paragraph and substituted “on a” for “and” after “acting” in the second paragraph. Stats. 2000, Ch. 1045 (AB 2698), in effect September 30, 2000, added “(a)” at the beginning of the former first paragraph, added “(b)” before “the” and, added “date of the” before “council” in the former second paragraph, and added subdivision (c). Stats. 2001, Ch. 176 (SB 210), in effect January 1, 2002, deleted former subdivision (c) which provided an earlier commencement date on actions or proceedings on a petition for cancellation related to specified electric generation projects located in Kern County.

Note.—Section 2 of Stats. 2000, Ch. 1045 (AB 2698) provides that due to the unique facts and circumstances relative to power generation projects in Kern County, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution. Therefore, special legislation contained in Section 1 of this act is necessarily applicable only to Kern County.

Construction.—An action challenging an assessor’s valuation which is required prior to approval of the cancellation of a land conservation contract by a board of supervisors or city council is not subject to the 180-day time limitation of this section, which applies only to cancellation decisions of a board of supervisors or city council and not to the value determination of an assessor. *People ex rel. Dept. of Conservation v. Triplett*, 48 Cal.App.4th 233.

51287. Fee to recover cost of services. The city or county may impose a fee pursuant to Chapter 8 (commencing with Section 66016) of Division 1 of Title 7 for recovery of costs under this article. The fee shall not exceed an amount necessary to recover the reasonable cost of services provided by the city or county under this article.

History.—Added by Stats. 1989, Ch. 943, in effect January 1, 1990. Stats. 1995, Ch. 686, in effect October 10, 1995, operative January 1, 1996, substituted “Chapter 8 (commencing with Section 66016) of Division 1 of Title 7” for “Chapter 13 (commencing with Section 54990) of Part 1 of Division 2” after “fee pursuant to” in the first sentence.

Article 6. Eminent Domain or Other Acquisition

- § 51290. State or local public improvements within preserve.
- § 51290.5. “Public improvement.”
- § 51291. “Public agency.”
- § 51291.5. Exceptions.
- § 51292. Conditions under which public improvement may not be located within preserve.
- § 51293. Same; special exceptions.
- § 51293.1. Establishment of preserve prior to location of public utility improvement.
- § 51294. Enforcement.
- § 51294.1. Water transmission facilities within preserve; local agency’s approval.
- § 51294.2. Same; validation proceedings.
- § 51295. Contract automatically void by condemnation.

51290. State or local public improvements within preserve. (a) It is the policy of the state to avoid, whenever practicable, the location of any federal, state, or local public improvements and any improvements of public utilities, and the acquisition of land therefor, in agricultural preserves.

(b) It is further the policy of the state that whenever it is necessary to locate such an improvement within an agricultural preserve, the improvement shall, whenever practicable, be located upon land other than land under a contract pursuant to this chapter.

(c) It is further the policy of the state that any agency or entity proposing to locate such an improvement shall, in considering the relative costs of parcels of land and the development of improvements, give consideration to the value to the public, as indicated in Article 2 (commencing with Section 51220), of land, and particularly prime agricultural land, within an agricultural preserve.

History.—Stats. 1998, Ch. 690 (SB 1835), in effect January 1, 1999, substituted “federal, state,” for “state” in subdivision (a); added “an” after “locate such” and substituted “the” for “such” after “preserve,” in subdivision (b); and added “the” before “development” and substituted commas for parenthesis around the phrase “and particularly prime agricultural land” in subdivision (c).

51290.5. “Public improvement.” As used in this chapter, “public improvement” means facilities or interests in real property, including easements, rights-of-way, and interests in fee title, owned by a public agency or person, as defined in subdivision (a) of Section 51291.

History.—Added by Stats. 1994, Ch. 1158, in effect January 1, 1995. Stats. 1998, Ch. 690 (SB 1835), in effect January 1, 1999, added a comma after “chapter”, added “, including easements, rights-of-way, and interests in fee title,” after “real property” and added a comma after “person” in the first sentence.x

51291. “Public agency.” (a) As used in this section and Sections 51292 and 51295, (1) “public agency” means any department or agency of the United States or the state, and any county, city, school district, or other local public district, agency, or entity, and (2) “person” means any person authorized to acquire property by eminent domain.

(b) Except as provided in Section 51291.5, whenever it appears that land within an agricultural preserve may be required by a public agency or person for a public use, the public agency or person shall advise the Director of Conservation and the local governing body responsible for the administration of the preserve of its intention to consider the location of a public improvement within the preserve. In accordance with Section 51290, the notice shall include an explanation of the preliminary consideration of Section 51292, and give a general description, in text or by diagram, of the agricultural preserve land proposed for acquisition, and a copy of any applicable contract created under this chapter. The Director of Conservation shall forward to the Secretary of Food and Agriculture, a copy of any material received from the public agency or person relating to the proposed acquisition.

Within 30 days thereafter, the Director of Conservation and the local governing body shall forward to the appropriate public agency or person concerned their comments with respect to the effect of the location of the public improvement on the land within the agricultural preserve and those comments shall be considered by the public agency or person. In preparing those comments, the Director of Conservation shall consider issues related to agricultural land use, including, but not limited to, matters related to the effects of the proposal on the conversion of adjacent or nearby agricultural land to nonagricultural uses, and shall consult with, and incorporate the comments of, the Secretary of Food and Agriculture on any other matters related to agricultural operations. The failure by any person or public agency, other than a state agency, to comply with the requirements of this section shall be admissible in evidence in any litigation for the acquisition of that land or involving the allocation of funds or the construction of the public improvement. This subdivision does not apply to the erection, construction, alteration, or maintenance of gas, electric, piped subterranean water or

wastewater, or communication utility facilities within an agricultural preserve if that preserve was established after the submission of the location of those facilities to the city or county for review or approval.

(c) When land in an agricultural preserve is acquired by a public entity, the public entity shall notify the Director of Conservation within 10 working days. The notice shall include a general explanation of the decision and the findings made pursuant to Section 51292. If different from that previously provided pursuant to subdivision (b), the notice shall also include a general description, in text or by diagram, of the agricultural preserve land acquired and a copy of any applicable contract created under this chapter.

(d) If, after giving the notice required under subdivisions (b) and (c) and before the project is completed within an agricultural preserve, the public agency or person proposes any significant change in the public improvement, it shall give notice of the changes to the Director of Conservation and the local governing body responsible for the administration of the preserve. Within 30 days thereafter, the Director of Conservation and the local governing body may forward to the public agency or person their comments with respect to the effect of the change to the public improvement on the land within the preserve and the compliance of the changed public improvements with this article. Those comments shall be considered by the public agency or person, if available within the time limits set by this subdivision.

(e) Any action or proceeding regarding notices or findings required by this article filed by the Director of Conservation or the local governing body administering the agricultural preserve shall be governed by Section 51294.

History.—Stats. 1967, p. 3221, in effect November 8, 1967, added the last sentence of the second paragraph. Stats. 1974, Ch. 544, p. 1253, in effect January 1, 1975, substituted "Director of Food and Agriculture" for "Director of Agriculture" in subdivision (b) and in the first sentence of the second paragraph. Stats. 1975, Ch. 1240, in effect January 1, 1976, deleted "by Section 1001 of the Civil Code" after "authorized" in subdivision (a). Stats. 1984, Ch. 851, in effect January 1, 1985, substituted "Conservation" for "Food and Agriculture" after "Director of" in the first sentence and added the second sentence to the first paragraph of subdivision (b); and substituted "conservation" for "Food and Agriculture" after "Director of" in the first sentence and added the second sentence to the second paragraph thereof. Stats. 1994, Ch. 1158, in effect January 1, 1995, added the second sentence in the first paragraph of subdivision (b); added "to comply with the requirements of this section" after "a state agency" in the fourth sentence of the second paragraph of subdivision (b); and added subdivisions (c), (d), and (e). Stats. 1998, Ch. 690 (SB 1835), in effect January 1, 1999, substituted "and Sections 51292 and 51295, (1)" for "Section 51292, and Section 51295", before "public agency", deleted "the state, or" after the first "means", substituted "of the United States or the state" for "thereof" after "department or agency"; substituted "and (2)" for "and" before "person" in subdivision (a); substituted "its" for "the" before "intention" in the first sentence and substituted "Secretary" for "Director" before "of Food" and added a comma after "Agriculture" in the third sentence of the first paragraph, added a comma after "thereafter" and added "appropriate" after "forward to the" in the first sentence, substituted "Secretary" for "Director" before "of Food" in the second sentence, substituted "The failure" for "Failure" before "of any" in the third sentence, deleted "any" after "person or" and placed commas around the phrase "other than a state agency" after "public agency" in the fourth sentence and added "the" after "after" in the fifth sentence of the second paragraph of subdivision (b); and deleted "within 10 working days" after "public entity" and added "within 10 working days" after "Conservation" in the first sentence, deleted a comma after "decision" in the second sentence and deleted a comma after "acquired" in the third sentence of subdivision (c). Stats. 1999, Ch. 1018 (SB 985), in effect January 1, 2000, substituted "Except as provided in Section 51291.5, whenever" for "Whenever" in the first sentence of the first paragraph of subdivision (b); deleted "of any public agency or person to comply with the requirements of this section shall not invalidate any action by the agency or person to locate a public improvement within an agricultural preserve. However, the failure" in the third and former fourth sentences, and added "piped subterranean water or waste" after "electric," in the fourth sentence of the second paragraph of subdivision (b); and deleted the former first sentence of subdivision (e), which provided that "If the notices and findings required by this section and Section 51292 are given and contained within documents prepared pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) those documents may be used to meet the notification and findings requirements of this section and Section 51292, as long as they are provided no later than the times set forth in this section." in subdivision (e).

51291.5. Exceptions. The notice requirements of subdivision (b) of Section 51291 shall not apply to the acquisition of land for the erection,

construction, or alteration of gas, electric, piped subterranean water or wastewater, or communication facilities.

History.—Added by Stats. 1999, Ch. 1018 (SB 985), in effect January 1, 2000.

51292. Conditions under which public improvement may not be located within preserve. No public agency or person shall locate a public improvement within an agricultural preserve unless the following findings are made:

(a) The location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve.

(b) If the land is agricultural land covered under a contract pursuant to this chapter for any public improvement, that there is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvement.

History.—Stats. 1968, p. 1339, in effect November 13, 1968, added “or agreement” after “contract” in subdivision (b), Stats. 1969, p. 2816, in effect November 10, 1969, deleted “or agreement” which was added in 1968. Stats. 1994, Ch. 1158, in effect January 1, 1995, deleted the subdivision letter designation “(a)” before “No public agency”, and added “unless the following findings are made:” after “an agricultural preserve” in the first paragraph; created new paragraph and added subdivision designation “(a)” and “The location is not” before “based primarily on” which had previously been part of the former subdivision (a); substituted “If the land is” for “No public agency or person shall acquire” after “(b)”, substituted “, that” for “if” after “any public improvement”, and added “no” after “there is” in subdivision (b). Stats. 1999, Ch. 1018 (SB 985), in effect January 1, 2000, deleted “prime” before “agricultural” in subdivision (b).

51293. Same; special exceptions. Section 51292 shall not apply to:

(a) The location or construction of improvements where the board or council administering the agricultural preserve approves or agrees to the location thereof, except when the acquiring agency and administering agency are the same entity.

(b) The acquisition of easements within a preserve by the board or council administering the preserve.

(c) The location or construction of any public utility improvement which has been approved by the Public Utilities Commission.

(d) The acquisition of either (1) temporary construction easements for public utility improvements, or (2) an interest in real property for underground public utility improvements. This subdivision shall apply only where the surface of the land subject to the acquisition is returned to the condition and use that immediately predated the construction of the public improvement, and when the construction of the public utility improvement will not significantly impair agricultural use of the affected contracted parcel or parcels.

(e) The location or construction of the following types of improvements, which are hereby determined to be compatible with or to enhance land within an agricultural preserve:

(1) Flood control works, including channel rectification and alteration.

(2) Public works required for fish and wildlife enhancement and preservation.

(3) Improvements for the primary benefit of the lands within the preserve.

(f) Improvements for which the site or route has been specified by the Legislature in a manner that makes it impossible to avoid the acquisition of land under contract.

(g) All state highways on routes as described in Section 301 to 622, inclusive, of the Streets and Highways Code, as those sections read on October 1, 1965.

(h) All facilities which are part of the State Water Facilities as described in subdivision (d) of Section 12934 of the Water Code, except facilities under paragraph (6) of subdivision (d) of that section.

(i) Land upon which condemnation proceedings have been commenced prior to October 1, 1965.

(j) The acquisition of a fee interest or conservation easement for a term of at least 10 years, in order to restrict the land to agricultural or open space uses as defined by subdivisions (b) and (o) of Section 51201.

History.—Stats. 1969, p. 2816, in effect November 10, 1969, substituted “board or council” for “Director of Agriculture or the local governing body”, deleted a provision concerning the local governing body, and deleted a provision requiring public utilities commission approval from subdivision (a); added subdivision (b) and (c); and relettered subdivisions (b) through (f) as subdivisions (d) through (h). Stats. 1994, Ch. 1158, in effect January 1, 1995, added “, except when the . . . the same entity” after “the location thereof” in subdivision (a); added new subdivision (d) and relettered former subdivisions (d), (e), (f), (g), and (h) as (e), (f), (g), (h), and (i), respectively; substituted “a manner that makes” for “such a manner as to make” after “the Legislature in” in subdivision (f); substituted “those” for “said” after “Highways Code, as” in subdivision (g); substituted “subdivision (d) of that section” for “said subdivision (d)” after “paragraph (6) of” in subdivision (h); and added subdivision (j).

51293.1. Establishment of preserve prior to location of public utility improvement. Any public agency or person requiring land in an agricultural preserve for a use which has been determined by a city or county to be a “compatible use” pursuant to subdivision (e) of Section 51201 in that agricultural preserve shall not be excused from the provisions of subdivision (b) of Section 51291 if the agricultural preserve was established before the location of the improvement of a public utility was submitted to the city, county, or Public Utilities Commission for agreement or approval and that compatible use shall not come within the provisions of Section 51293 unless the location of the improvement is approved or agreed to pursuant to subdivision (a) of Section 51293 or the compatible use is listed in Section 51293.

History.—Stats. 1983, Ch. 101, in effect January 1, 1984, substituted “subdivision (e) of Section 51201” for “Section 51201 (e)” after “to”, substituted “subdivision (b) of Section 51291” for “Section 51291 (b)” after “of”, substituted “that” for “such” after “approval and”, substituted “the” for “such” after “location of”, and substituted “subdivision (a) of Section 51293” for “Section 51293 (a)” after “to”.

51294. Enforcement. Section 51292 shall be enforceable only by mandamus proceedings by the local governing body administering the agricultural preserve or the Director of Conservation. However, as applied to condemnors whose determination of necessity is not conclusive by statute, evidence as to the compliance of the condemnor with Section 51292 shall be admissible on motion of any of the parties in any action otherwise authorized to be brought by the landowner or in any action against the landowner.

History.—Stats. 1970, p. 825, in effect November 23, 1970, added “on motion of any of the parties” after “admissible” and substituted “in any” for “by way of defense in an” in the second sentence. Stats. 1974, Ch. 544, p. 1253, in effect January 1, 1975, substituted “Director of Food and Agriculture” for “Director of Agriculture” in the first sentence. Stats. 1984, Ch. 851, in effect January 1, 1985, substituted “Conservation” for “Food and Agriculture” after “Director of” in the first sentence, and substituted “the landowner” for “him” after “action against” in the second sentence.

51294.1. Water transmission facilities within preserve; local agency’s approval. After 30 days have elapsed following its action, pursuant to subdivision (b) of Section 51291, advising the Director of

Conservation and the local governing body of a county or city administering an agricultural preserve of its intention to consider the location of a public improvement within such agricultural preserve, a public agency proposing to acquire land within an agricultural preserve for water transmission facilities which will extend into more than one county, may file the proposed route of the facilities with each county or city administering an agricultural preserve into which the facilities will extend and request such county or city to approve or agree to the location of the facilities or the acquisition of the land therefor. Upon approval or agreement, the provisions of Section 51292 shall not apply to the location of the proposed water transmission facility or the acquisition of land therefor in any county or city which has approved or agreed to the location or acquisition.

History.—Added by Stats. 1970, p. 825, in effect November 23, 1970. Stats. 1974, Ch. 544, p. 1253, in effect January 1, 1975, substituted "Director of Food and Agriculture" for "Director of Agriculture" in the first sentence. Stats. 1984, Ch. 851, in effect January 1, 1985, substituted "Conservation" for "Food and Agriculture" after "Director of" in the first sentence.

51294.2. Same; validation proceedings. If any local governing body administering an agricultural preserve within 90 days after receiving a request pursuant to Section 51294.1 has not approved or agreed to the location of water transmission facilities as provided in Section 51294.1 or in subdivision (a) of Section 51293, the public agency making such request may file an action against such local governing body in the superior court of one of the counties within which any such body has failed to approve the location of facilities or the acquisition of land therefor, to determine whether the public agency proposing the location or acquisition has complied with the requirements of Section 51292. If the court should so determine, the provisions of Section 51292 shall not apply to the location of water transmission facilities, nor the acquisition of land therefor, in any of the counties into which they shall extend, and no writ of mandamus shall be issued in relation thereto pursuant to Section 51294. For the purposes of this section, the county selected for commencing such action is the proper county for the trial of such proceedings. In determining whether the public agency has complied with the requirements of Section 51292, the court shall consider the alignment, functioning and operation of the entire transmission facility.

Courts shall give any action brought under the provisions of this section preference over all other civil actions therein, to the end that such actions shall be quickly heard and determined.

History.—Added by Stats. 1970, p. 825, in effect November 23, 1970.

51295. Contract automatically void by condemnation. When any action in eminent domain for the condemnation of the fee title of an entire parcel of land subject to a contract is filed or when that land is acquired in lieu of eminent domain for a public improvement by a public agency or person, or whenever there is any such action or acquisition by the federal government or any person, instrumentality, or agency acting under the authority or power of the federal government, the contract shall be deemed null and void as to the

land actually being condemned, or so acquired as of the date the action is filed, and for the purposes of establishing the value of the land, the contract shall be deemed never to have existed.

Upon the termination of the proceeding, the contract shall be null and void for all land actually taken or acquired.

When an action to condemn or acquire less than all of a parcel of land subject to a contract is commenced, the contract shall be deemed null and void as to the land actually condemned or acquired and shall be disregarded in the valuation process only as to the land actually being taken, unless the remaining land subject to contract will be adversely affected by the condemnation, in which case the value of that damage shall be computed without regard to the contract.

When an action to condemn or acquire an interest that is less than the fee title of an entire parcel or any portion thereof of land subject to a contract is commenced, the contract shall be deemed null and void as to that interest and, for the purpose of establishing the value of only that interest, shall be deemed never to have existed, unless the remaining interests in any of the land subject to the contract will be adversely affected, in which case the value of that damage shall be computed without regard to the contract.

The land actually taken shall be removed from the contract. Under no circumstances shall land be removed that is not actually taken for a public improvement, except that when only a portion of the land or less than a fee interest in the land is taken or acquired, the contract may be canceled with respect to the remaining portion or interest upon petition of either party and pursuant to the provisions of Article 5 (commencing with Section 51280).

For the purposes of this section, a finding by the board or council that no authorized use may be made of the land if the contract is continued on the remaining portion or interest in the land may satisfy the requirements of subdivision (a) of Section 51282.

If, after acquisition, the acquiring public agency determines that it will not for any reason actually locate on that land or any part thereof, the public improvement for which the land was acquired, before returning the land to private ownership, the public agency shall give written notice to the Director of Conservation and the local governing body responsible for the administration of the preserve, and the land shall be reenrolled in a new contract or encumbered by an enforceable deed restriction with terms at least as restrictive as those provided by this chapter. The duration of the restriction shall be determined by subtracting the length of time the land was held by the acquiring public agency or person from the number of years that remained on the original contract at the time of acquisition.

History.—Stats. 1967, p. 3221, in effect November 8, 1967, enlarged the section's applicability to a federal action or acquisition. Stats. 1969, p. 2816, in effect November 10, 1969, substituted "an entire . . . to a " for "any land under contract", substituted "shall be deemed" for "is" and substituted "and for the purposes . . . never to have existed" for "or so acquired and thereafter the contract shall not be binding on any party to it" in the first sentence of the first paragraph; and added the second, third and fourth paragraphs. Stats. 1971, p. 2123, in effect March 4, 1972, added the fourth and sixth paragraphs and substituted all after "not actually taken," for "except as otherwise provided in this chapter," in the fifth paragraph. Stats. 1984, Ch. 415, in effect January 1, 1985, deleted "of this chapter" after "51280)" in the second sentence of the fifth paragraph, and substituted "subdivision" for "subdivisions" after "requirements of",

and deleted "and (b)" after "(a)" in the sixth paragraph. Stats. 1994, Ch. 1158, in effect January 1, 1995, added "for public improvement" after "not actually taken" in the second sentence of the fifth paragraph; and added the seventh paragraph. Stats. 1998, Ch. 690 (SB 1835), in effect January 1, 1999, added "such" before "action or", substituted ", or agency acting under the" for "or agency enacting under", substituted "the" for "such" before the first "contract" in the first sentence of the first paragraph, substituted "that" for "which" after the first "interest" and substituted "only that interest," for "that interest only" after the first "value of" in the first sentence of the fourth paragraph, added "a" before "public improvement" in the second sentence of the fifth paragraph, substituted "new contract" for "contract," after "reenrolled in a" in the first sentence of the seventh paragraph, and added commas throughout the text.

Construction.—This section applies only to federal acquisitions through or under threat of the exercise of federal eminent domain powers. An Indian tribe's voluntary transfer of title to the Bureau of Indian Affairs is not an involuntary taking contemplated by the section to terminate Williamson Act restrictions. *Friends of East Willits Valley v. Mendocino County*, 101 Cal.App.4th 191.

Note.—Stats. 1971, p. 2123, also provided: When it meets all other requirements under the California Land Conservation Act of 1965 provided for in Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code, a contract, which at the time of its execution contained any or all of the phrases quoted in this section, shall be deemed an enforceable restriction pursuant to Section 422 of the Revenue and Taxation Code.

(a) If such contract provides for its nullification upon the filing of a "condemnation of an interest in all or any part of the subject property" or a "condemnation of all or a portion of subject property" and the board of supervisors of the county or city council of the city having jurisdiction over the land subject to such contract passes an ordinance stating that in administering such portion of the contract it will apply Section 51295 of the Government Code; or

(b) If such contract provides that the remaining portion of land after an action or acquisition by condemnation is determined by the board of supervisors of the county or city council of the city having jurisdiction over the land subject to the contract to be "impaired to such extent as to make it unsuitable for those uses legally available to the owner under terms of his contract" or provides that "such remaining land would no longer be eligible for contract under Section 51242 of the Government Code" and the board of supervisors of the county or city council of the city having jurisdiction over the land subject to such contracts passes an ordinance stating that in administering such portion of a contract it will apply Section 51295 of the Government Code; or

(c) If such contract provides for any waiver of a cancellation payment "provided that such waiver is in the best interest of the program to conserve agricultural land" and the board of supervisors of the county or city council of the city having jurisdiction over the land subject to such contract passes an ordinance stating that in administering such portion of a contract, it will apply subdivision (c) of Section 51283 of the Government Code.

(d) Each landowner affected by an ordinance referred to in subdivisions (a) to (c), inclusive, of this section shall be given personal notice of such ordinance by registered mail, or if mail is not delivered to such person, by notice posted on the affected property.

Article 7. Demonstration Land Preservation Project *

[The provisions of this article were repealed by Stats. 1984, Ch. 803, operative January 1, 1990.]

§ 51296. Legislative intent. [Repealed.]

§ 51296.5. Agreements between the State Coastal Conservancy and Marin County. [Repealed.]

§ 51297. Marin County projects. [Repealed.]

§ 51297.5. State Coastal Conservancy reporting. [Repealed.]

§ 51298. Termination date. [Repealed.]

51296. Legislative intent. [Repealed by Stats. 1984, Ch. 803, operative January 1, 1990.]

51296.5. Agreements between the State coastal Conservancy and Marin County. [Repealed by Stats. 1984, Ch. 803, operative January 1, 1990.]

51297. Marin County projects. [Repealed by Stats. 1984, Ch. 803, operative January 1, 1990.]

51297.5. State Coastal Conservancy reporting. [Repealed by Stats. 1984, Ch. 803, operative January 1, 1990.]

51298. Termination date. [Repealed by Stats. 1984, Ch. 803, operative January 1, 1990.]

Article 7. Farmland Security Zones **

[The provisions of this article were repealed by Stats. 2000, Ch. 506, in effect January 1, 2001.]

51296. Farmland Security Zones. [Repealed.]

* The provisions of this article, except as otherwise noted, were added by Stats. 1984, Ch. 803, in effect January 1, 1985.

** The provisions of this article were added by Stats. 1998, Ch. 353, in effect August 24, 1998.

Article 7. Farmland Security Zones

- 51296. Farmland Security Zones.
- 51296.1. Contracts.
- 51296.2. Tax treatment.
- 51296.3. Annexation to a city.
- 51296.4. Annexation to a special district.
- 51296.5. School districts' use of land.
- 51296.6. School districts' acquisition of land.
- 51296.7. Compatible use.
- 51296.8. Important Farmland Series.
- 51296.9. Nonrenewal.
- 51297. Petition for cancellation.
- 51297.1. Exceptions.
- 51297.2. Entitlement.
- 51297.3. Exceptions for termination.
- 51297.4. Williamson Act contracts.

51296. Farmland Security Zones. The Legislature finds and declares that it is desirable to expand options available to landowners for the preservation of agricultural land. It is therefore the intent of the Legislature in enacting this article to encourage the creation of longer term voluntary enforceable restrictions within agricultural preserves.

History.—Added by Stats. 2000, Ch. 506 (SB 1350), in effect January 1, 2001.

51296.1. Contracts. A landowner or group of landowners may petition the board to rescind a contract or contracts entered into pursuant to this chapter in order to simultaneously place the land subject to that contract or those contracts under a new contract designating the property as a farmland security zone. A landowner or group of landowners may also petition the board to create a farmland security zone for the purpose of entering into farmland security zone contracts pursuant to this section.

(a) Before approving the rescission of a contract or contracts entered into pursuant to this chapter in order to simultaneously place the land under a new farmland security zone contract, the board shall create a farmland security zone, pursuant to the requirements of Section 51230, within an existing agricultural preserve.

(b) No land shall be included in a farmland security zone unless expressly requested by the landowner. Any land located within a city's sphere of influence shall not be included within a farmland security zone, unless the creation of the farmland security zone within the sphere of influence has been expressly approved by resolution by the city with jurisdiction within the sphere of influence.

(c) If more than one landowner requests the creation of a farmland security zone and the parcels are contiguous, the county shall place those parcels in the same farmland security zone.

(d) A contract entered into pursuant to this section shall be for an initial term of no less than 20 years. Each contract shall provide that on the anniversary date of the contract or on another annual date as specified by the contract, a year shall be added automatically to the initial term unless a notice of nonrenewal is given pursuant to Section 51245.

(e) Upon termination of a farmland security zone contract, the farmland security zone designation for that parcel shall simultaneously be terminated.

History.—Added by Stats. 2000, Ch. 506 (SB 1350), in effect January 1, 2001.

51296.2. Tax treatment. Both of the following shall apply to land within a designated farmland security zone:

(a) The land shall be eligible for property tax valuation pursuant to Section 423.4 of the Revenue and Taxation Code.

(b) Notwithstanding any other provision of law, any special tax approved by the voters for urban-related services on or after January 1, 1999, on the land or any living improvement shall be levied at a reduced rate unless the tax directly benefits the land or the living improvements.

History.—Added by Stats. 2000, Ch. 506 (SB 1350), in effect January 1, 2001.

51296.3. Annexation to a city. Notwithstanding any provision of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000)), a local agency formation commission shall not approve a change of organization or reorganization that would result in the annexation of land within a designated farmland security zone to a city. However, this subdivision shall not apply under any of the following circumstances:

(a) If the farmland security zone is located within a designated, delineated area that has been approved by the voters as a limit for existing and future urban facilities, utilities, and services.

(b) If annexation of a parcel or a portion of a parcel is necessary for the location of a public improvement, as defined in Section 51290.5, except as provided in Section 51296.5 or 51296.6.

(c) If the landowner consents to the annexation.

History.—Added by Stats. 2000, Ch. 506 (SB 1350), in effect January 1, 2001. Stats. 2001, Ch. 744 (SB 1182), in effect January 1, 2002, substituted “Section 51296.5 or 51296.6” for “subdivision (f) or (g) of this section” after “as provided in” in subdivision (b). Stats. 2002, Ch. 614 (AB 2370), in effect January 1, 2003, substituted “Cortese-Knox-Hertzberg” for “Cortese-Knox” after “provision of the” and substituted “2000” for “1985” after “Act of” in the first sentence.

*Note.—*Section 10 of Stats. 2001, Ch. 744 (SB 1182) provides that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

51296.4. Annexation to a special district. Notwithstanding any provision of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000)), a local agency formation commission shall not approve a change of organization or reorganization that would result in the annexation of land within a designated farmland security zone to a special district that provides or would provide sewers, nonagricultural water, or streets and roads, unless the facilities or services provided by the special district benefit land uses that are allowed under the contract and the landowner consents to the change of organization or reorganization.

History.—Added by Stats. 2000, Ch. 506 (SB 1350), in effect January 1, 2001. Stats. 2002, Ch. 614 (AB 2370), in effect January 1, 2003, substituted “Cortese-Knox-Hertzberg” for “Cortese-Knox” after “provision of the”, substituted “2000” for “1985” after “Act of”, and added “or would provide” after “provides” in the first sentence.

51296.5. School districts' use of land. Notwithstanding Article 5 (commencing with Section 53090) of Chapter 1 of Division 2 of Title 5, a school district shall not render inapplicable a county zoning ordinance to the use of land by the school district if the land is within a designated farmland security zone.

History.—Added by Stats. 2000, Ch. 506 (SB 1350), in effect January 1, 2001.

51296.6. School districts' acquisition of land. Notwithstanding any other provision of law, a school district shall not acquire any land that is within a designated farmland security zone.

History.—Added by Stats. 2000, Ch. 506 (SB 1350), in effect January 1, 2001.

51296.7. Compatible use. The board shall not approve any use of land within a designated farmland security zone based on the compatible use provisions contained in subdivision (c) of Section 51238.1.

History.—Added by Stats. 2000, Ch. 506 (SB 1350), in effect January 1, 2001.

51296.8. Important Farmland Series. Sections 51296 to 51297.4, inclusive, shall only apply to land that is designated on the Important Farmland Series maps, prepared pursuant to Section 65570 as predominantly one or more of the following:

- (a) Prime farmland.
- (b) Farmland of statewide significance.
- (c) Unique farmland.
- (d) Farmland of local importance.

If the proposed farmland security zone is in an area that is not designated on the Important Farmland Series maps, the land shall qualify if it is predominantly prime agricultural land, as defined in subdivision (c) of Section 51201.

History.—Added by Stats. 2000, Ch. 506 (SB 1350), in effect January 1, 2001.

51296.9. Nonrenewal. Nonrenewal of a farmland security zone contract shall be pursuant to Article 3 (commencing with Section 51240), except as otherwise provided in this article.

History.—Added by Stats. 2000, Ch. 506 (SB 1350), in effect January 1, 2001.

51297. Petition for cancellation. A petition for cancellation of a farmland security zone contract created under this article may be filed only by the landowner with the city or county within which the contracted land is located. The city or county may grant a petition only in accordance with the procedures provided for in Article 5 (commencing with Section 51280) and only if all the following requirements are met:

(a) The city or county shall make both of the findings specified in paragraphs (1) and (2) of subdivision (a) of Section 51282, based on substantial evidence in the record. Subdivisions (b) to (e), inclusive, of Section 51282 shall apply to the findings made by the city or county.

(b) In its resolution tentatively approving cancellation of the contract, the city or county shall find all of the following:

(1) That no beneficial public purpose would be served by the continuation of the contract.

(2) That the uneconomic nature of the agricultural use is primarily attributable to circumstances beyond the control of the landowner and the local government.

(3) That the landowner has paid a cancellation fee equal to 25 percent of the cancellation valuation calculated in accordance with subdivision (b) of Section 51283.

(c) The Director of Conservation approves the cancellation. The director may approve the cancellation after reviewing the record of the tentative cancellation provided by the city or county, only if he or she finds both of the following:

(1) That there is substantial evidence in the record supporting the decision.

(2) That no beneficial public purpose would be served by the continuation of the contract.

(d) A finding that no authorized use may be made of a remnant contract parcel of five acres or less left by public acquisition pursuant to Section 51295, may be substituted for the finding in subdivision (a).

History.—Added by Stats. 2000, Ch. 506 (SB 1350), in effect January 1, 2001.

51297.1. Exceptions. All of the provisions of Article 6 (commencing with Section 51290) shall apply to farmland security zones created pursuant to this article except as specifically provided in this article.

History.—Added by Stats. 2000, Ch. 506 (SB 1350), in effect January 1, 2001.

51297.2. Entitlement. No state agency, as defined in Section 65934, or local agency, as defined in Section 65930, shall require any land to be placed under a farmland security zone contract as a condition of the issuance of any entitlement to use or the approval of a legislative or adjudicative act involving, but not limited to, the planning, use, or development of real property, or a change of organization or reorganization, as defined in Section 56021 or 56073. No contract shall be executed as a condition of an entitlement to use issued by an agency of the United States government.

History.—Added by Stats. 2000, Ch. 506 (SB 1350), in effect January 1, 2001.

51297.3. Exceptions for termination. Sections 51296.3 and 51296.4 shall not apply during the three-year period preceding the termination of a farmland security zone contract.

History.—Added by Stats. 2000, Ch. 506 (SB 1350), in effect January 1, 2001.

51297.4. Williamson Act contracts. Nothing in Sections 51296 to 51297.4, inclusive, shall be construed to limit the authority of a board to rescind a portion or portions of a Williamson Act contract or contracts for the purpose of immediately enrolling the land in a farmland security zone contract so long as the remaining land is retained in a Williamson Act contract and the board determines that its action would improve the conservation of

agricultural land within the county where the rescission occurs. The creation of multiple contracts under this section does not constitute a subdivision of the land.

History.—Added by Stats 2000, Ch. 506 (SB 1350), in effect January 1, 2001.

CHAPTER 8. CAPITAL INVESTMENT INCENTIVE PROGRAM
EFFECTIVE MAY 26, 1999

51298. **Capital Investment Incentive Program.** It is the intent of the Legislature in enacting this chapter to provide local governments opportunities to attract large manufacturing facilities to invest in their communities and to encourage industries such as high technology, aerospace, automotive, biotechnology, software, environmental sources, and others to locate and invest in those facilities in California.

(a) Commencing in the 1998-99 fiscal year, the governing body of a county, city and county, or city, may, by means of an ordinance or resolution approved by a majority of its entire membership, elect to establish a capital investment incentive program. In any county, city and county, or city in which the governing body has so elected, the county, city and county, or city shall, upon the approval by a majority of the entire membership of its governing body of a written request therefor, pay a capital investment incentive amount to the proponent of a qualified manufacturing facility for up to 15 consecutive fiscal years. A request for the payment of capital investment incentive amounts shall be filed by a proponent in writing with the governing body of an electing county, city and county, or city in the time and manner specified in procedures adopted by that governing body. In the case in which the governing body of an electing county, city and county, or city approves a request for the payment of capital investment incentive amounts, both of the following conditions shall apply:

(1) The consecutive fiscal years during which a capital investment incentive amount is to be paid shall commence with the first fiscal year commencing after the date upon which the qualified manufacturing facility is certified for occupancy or, if no certification is issued, the first fiscal year commencing after the date upon which the qualified manufacturing facility commences operation.

(2) In accordance with paragraph (4) of subdivision (d), the annual payment to a proponent of each capital investment incentive amount shall be contingent upon the proponent's payment of a community services fee.

(b) For purposes of this section:

(1) "Qualified manufacturing facility" means a proposed manufacturing facility that meets all of the following criteria:

(A) The proponent's initial investment in that facility, in real and personal property, necessary for the full and normal operation of that facility, made pursuant to the capital investment incentive program, that comprises any portion of that facility or has its situs at that facility, exceeds one hundred fifty million dollars (\$150,000,000). Compliance with this subparagraph shall be

certified by the Trade and Commerce Agency upon the agency's approval of a proponent's application for certification of a qualified manufacturing facility. An application for certification shall be submitted by a proponent to the agency in writing in the time and manner as specified by the agency.

(B) The facility is to be located within the jurisdiction of the electing county, city and county, or city to which the request is made for payment of capital investment incentive amounts.

(C) The facility is operated by either of the following:

(i) A business described in Codes 3500 to 3899, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, except that "January 1, 1997," shall be substituted for "January 1, 1994," in each place in which it appears.

(ii) A business engaged in the recovery of minerals from geothermal resources, including the proportional amount of a geothermal electric generating plant that is integral to the recovery process by providing electricity for it.

(D) The proponent is either currently engaged in commercial production or engaged in the perfection of the manufacturing process, or the perfection of a product intended to be manufactured.

(2) "Proponent" means a party or parties that meet all of the following criteria:

(A) The party is named in the application to the county, city and county, or city within which the qualified manufacturing facility would be located for a permit to construct a qualified manufacturing facility.

(B) The party will be the fee owner of the qualified manufacturing facility upon the completion of that facility. Notwithstanding the previous sentence, the party may enter into a sale-leaseback transaction and nevertheless be considered the proponent.

(C) If a proponent that is receiving capital investment incentive amounts subsequently leases the subject qualified manufacturing facility to another party, the lease may provide for the payment to that lessee of any portion of a capital investment incentive amount. Any lessee receiving any portion of a capital investment incentive amount shall also be considered a proponent for the purposes of subdivision (d).

(3) "Capital investment incentive amount" means, with respect to a qualified manufacturing facility for a relevant fiscal year, an amount up to or equal to the amount of ad valorem property tax revenue derived by the participating local agency from the taxation of that portion of the total assessed value of that real and personal property described in subparagraph (A) of paragraph (1) that is in excess of one hundred fifty million dollars (\$150,000,000).

(4) "Manufacturing" means the activity of converting or conditioning property by changing the form, composition, quality, or character of the property for ultimate sale at retail or use in the manufacturing of a product to

be ultimately sold at retail. Manufacturing includes any improvements to tangible personal property that result in a greater service life or greater functionality than that of the original property.

(c) A city, special district, or school district may, upon the approval by a majority of the entire membership of its governing body, pay to the county, city and county, or city an amount equal to the amount of ad valorem property tax revenue allocated to that city, special district, or school district, but not the actual allocation, derived from the taxation of that portion of the total assessed value of that real and personal property described in subparagraph (A) of paragraph (1) of subdivision (b) that is in excess of one hundred fifty million dollars (\$150,000,000).

(d) A proponent whose request for the payment of capital investment incentive amounts is approved by an electing county, city and county, or city shall enter into a community services agreement with that county, city and county, or city that includes, but is not limited to, all of the following provisions:

(1) A provision requiring that a community services fee be remitted by the proponent to the county, city and county, or city in each fiscal year subject to the agreement, in an amount that is equal to 25 percent of the capital investment incentive amount calculated for that proponent for that fiscal year, except that in no fiscal year shall the amount of the community services fee exceed two million dollars (\$2,000,000).

(2) A provision specifying the dates in each relevant fiscal year upon which payment of the community services fee is due and delinquent, and the rate of interest to be charged to a proponent for any delinquent portion of the community services fee amount.

(3) A provision specifying the procedures and rules for the determination of underpayments or overpayments of a community services fee, for the appeal of determinations of any underpayment, and for the refunding or crediting of any overpayment.

(4) A provision specifying that a proponent is ineligible to receive a capital investment incentive amount if that proponent is currently delinquent in the payment of any portion of a community services fee amount, if the qualified manufacturing facility is constructed in a manner materially different from the facility as described in building permit application materials, or if the facility is no longer operated as a qualified manufacturing facility meeting the requirements of paragraph (1) of subdivision (b). If a proponent becomes ineligible to receive a capital investment incentive amount as a result of an agreement provision included pursuant to this subparagraph, the running of the number of consecutive fiscal years specified in an agreement made pursuant to subdivision (a) is not tolled during the period in which the proponent is ineligible.

(5) A provision that sets forth a job creation plan with respect to the relevant qualified manufacturing facility. The plan shall specify the number of jobs to be created by that facility, and the types of jobs and compensation

ranges to be created thereby. The plan shall also specify that for the entire term of the community services agreement, both of the following shall apply:

(A) All of the employees working at the qualified manufacturing facility shall be covered by an employer-sponsored health benefits plan.

(B) The average weekly wage, exclusive of overtime, paid to all of the employees working at the qualified manufacturing facility, who are not management or supervisory employees, shall be not less than the state average weekly wage. For the purpose of this subdivision, "state average weekly wage" means the average weekly wage paid by employers to employees covered by unemployment insurance, as reported to the Employment Development Department for the four calendar quarters ending June 30 of the preceding calendar year.

(6) (A) In the case in which the proponent fails to operate the qualified manufacturing facility as required by the community services agreement, a provision that requires the recapture of any portion of any capital investment incentive amounts previously paid to the proponent equal to the lesser of the following:

(i) All of the capital investment incentive amounts paid to the proponent, less all of the community services fees received from the proponent, and less any capital investment incentive amounts previously recaptured.

(ii) The last capital investment incentive amount paid to the proponent, less the last community services fee received from the proponent, multiplied by 40 percent of the number of years remaining in the community services agreement, but not to exceed 10 years, and less any capital investment incentive amounts previously recaptured.

(B) If the proponent fails to operate the qualified manufacturing facility as required by the community services agreement, the county, city and county, or city may, upon a finding that good cause exists, waive any portion of the recapture of any capital investment incentive amount due under this subdivision. For the purpose of this subdivision, good cause includes, but is not limited to, the following:

(i) The proponent has sold or leased the property to a person who has entered into an agreement with the county, city and county, or city to assume all of the responsibilities of the proponent under the community services agreement.

(ii) The qualified manufacturing facility has been rendered inoperable and beyond repair as a result of an act of God.

(C) For purposes of this subdivision, failure to operate a qualified manufacturing facility as required by the community services agreement includes, but is not limited to, failure to establish the number of jobs specified in the jobs creation plan created pursuant to paragraph (5).

(e) (1) Each county, city and county, or city that elects to establish a capital investment incentive program shall notify the Trade and Commerce Agency of its election to do so no later than June 30th of the fiscal year in which the election was made.

(2) In addition to the information required to be reported pursuant to paragraph (1), each county, city and county, or city that has elected to establish a capital investment incentive program shall notify the Trade and Commerce Agency each fiscal year no later than June 30th of the amount of any capital investment incentive payments made and the proponent of the qualified manufacturing facility to whom the payments were made during that fiscal year.

(3) The Trade and Commerce Agency shall compile the information submitted by each county, city and county, and city pursuant to paragraphs (1) and (2) and submit a report to the Legislature containing this information no later than October 1, every two years commencing October 1, 2000.

History.—Added by Stats. 1997, Ch. 616 (SB 566) in effect January 1, 1998. Stats. 1999, Ch. 24 (SB 133) in effect May 26, 1999, added “either of the following” after “operated by” in the first sentence, changed “a” to (i) (A), and substituted “except that” for “however” after “edition,” and added “subsection (ii) A business engaged in the recovery of minerals from geothermal resources, including the proportional amount of a geothermal electric generating plant that is integral to the recovery process by providing electricity for it.” in subdivision (b)(1)(C); substituted “or parties that meet” for “that meets” after “party” in subdivision (b)(2); deleted “of subdivision (b)” after “paragraph (1)” in subdivision (b)(3); and added “A” to the beginning of the first sentence in subdivision (d) (5). Stats. 2000, Ch. 135 (AB 2539), in effect January 1, 2001, substituted “,” for “that” after “agreement” in the third sentence of paragraph (5) of subdivision (d).

